undermines the ability to make population-level estimates.[9] The U.S. Census Bureau is fielding the Household Pulse Survey as a part of their Experimental Data Series.[10] We continue to learn about the Household Pulse Survey methods and its promise and limitations as a data source to study the population size and characteristics of transgender people in the U.S.[11] Although they do not yet collect data about gender identity in all U.S. states, the CDC's BRFSS and YRBS currently provide the best available data to generate estimates of the number of adults and youth who identify as transgender.

In 2016 and 2017, the Williams Institute used data from the CDC's 2014-15 BRFSS to estimate the number of adults (ages 18 and older) and youth (ages 13 to 17) who identify as transgender.[12] Since then, a total of 43 states have used the BRFSS optional gender identity module for at least one year, providing more years of data from more states since these initial estimates. Additionally, since 2017, 15 states have included a question to identify transgender youth in their YRBS statewide questionnaire.[13] These more recent data from the BRFSS and the YRBS provide an opportunity to update our prior population estimates of the number of adults and youth who identify as transgender in the U.S. In this report, we describe our updated estimates, including estimates regarding gender, age, and race/ethnicity at the national level and age and race/ethnicity at the regional and state levels. A detailed description of our methods and accompanying appendix can be found at the end of this report.

[9] From 2016 through the second quarter of 2019, questions pertaining to sexual orientation and gender identity were included in the NCVS. In 2019, the Bureau of Justice Statistics determined that the sexual orientation and gender identity questions would be administered only to those age 16 or older who reported violent victimization (not to all respondents). More recently, BJS has determined that the sexual orientation and gender identity items will be reinstated and administered to the original universe of all persons age 16 or older beginning in January 2022. *See* Bureau of Justice Statistics. (2021*). NCVS OMB Supporting Statement Part A*. Office of Management and Budget, Office of Information and Regulatory Affairs. https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202109-1121-002; Office of Information and Regulatory Affairs. (2021). *OIRA Conclusion, OMB Control No: 1121-0111*. Office of Management and Budget. https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202109-1121-002#.

[10] United States Census Bureau. (2021). *Measuring Household Experiences during the Coronavirus Pandemic*. https://www.census.gov/data/experimental-data-products/household-pulse-survey.html.

[11] United States Census Bureau. (2021). *Source of the Data and Accuracy of the Estimates for the Household Pulse Survey – Phase 3.2*. https://www2.census.gov/programs-surveys/demo/technical-documentation/hhp/Phase3-2_Source_and_Accuracy_Week39.pdf; Jesdale, B.M. (2021). *Counting Gender Minority Populations in the Household Pulse Survey (The AGENID=2 Memo).* National LGBT Cancer Network. https://cancer-network.org/wp-content/uploads/2021/10/Counting-GM-People-in-Pulse-Data.pdf.

[12] Flores, A.R., Herman, J.L., Gates, G.J., & Brown, T.N.T. (2016). *How Many Adults Identify as Transgender in the United States?* Los Angeles, CA: The Williams Institute; Herman, J.L., Flores, A.R., Brown, T.N.T., Wilson, B.D.M., & Conron, K.J. (2017). *Age of Individuals who Identify as Transgender in the United States.* Los Angeles, CA: The Williams Institute. Those who report that they consider themselves to be transgender in the BRFSS may identify with and use different gender identity terms outside the survey context, such as man, woman, and nonbinary.

[13] The count of 15 states is based on authors' original analysis of YRBS data.

FINDINGS

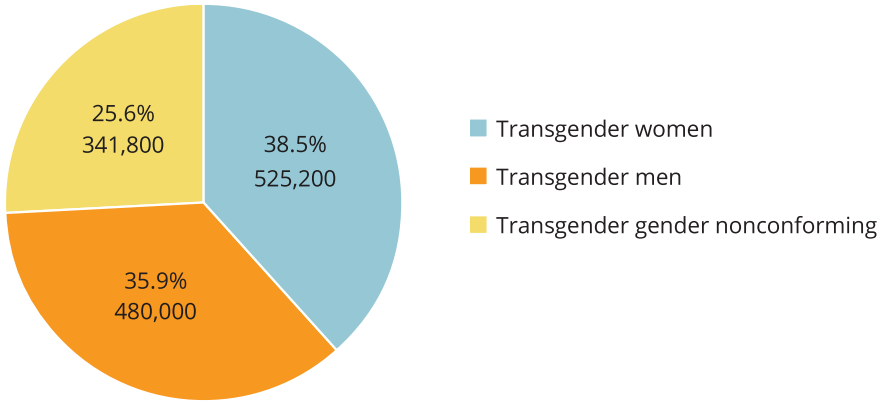
NATIONAL POPULATION ESTIMATES BY GENDER IDENTITY, AGE, AND RACE/ETHNICITY

Nationally, we estimate that 0.6% of those ages 13 and older identify as transgender in the United States, which is about 1.6 million individuals based on current U.S. population size. Among adults, 0.5% (over 1.3 million adults) identify as transgender. Among youth ages 13 to 17, 1.4% (about 300,000 youth) identify as transgender. The BRFSS and YRBS data allow us to further describe gender identity for adults, age categories for individuals ages 13 and older, and race/ethnicity separately for youth and adults.

Gender Identity

The BRFSS optional gender identity module includes a follow-up question of adults who identify as transgender to further describe their gender identity.[14] Based on that follow-up question, we find that of adults who identify as transgender, 38.5% (515,200) are transgender women, 35.9% (480,000) are transgender men, and 25.6% (341,800) reported they are gender nonconforming. It is possible that transgender adults who identify as nonbinary may have reported their gender in the BRFSS as gender nonconforming. A recent study estimated that nearly one-third of transgender adults identify as nonbinary, which is similar to our finding of 25.6%.[15] The YRBS does not include a follow-up question to allow respondents to further describe their gender identity. Therefore, we are unable to provide a more detailed description of gender identities among youth.

Figure 1. Gender identity of adults who identify as transgender in the U.S.



[14]The BRFSS questionnaire asks, "Do you consider yourself to be transgender?" If the answer is yes, the respondent is then asked, "Do you consider yourself to be 1. male-to-female, 2. female-to-male, or 3. gender nonconforming?" We categorize those who answered "male-to-female" as transgender women, those who answered "female-to-male" as transgender men, and those who answered "gender noncomforming" as gender noncomforming.

[15]Wilson, B.D.M & Meyer, I.H. (2021). *Nonbinary LGBTQ Adults in the United States*. Los Angeles, CA: The Williams Institute.

Age

We describe the age of individuals who identify as transgender in two ways: the percentage of each age group that identifies as transgender and the age distribution of the transgender-identified population compared to the age distribution of the U.S. population. When looking at the percentage in each age group that identifies as transgender, those in the youngest age groups appear to have a higher percentage of those who identity as transgender. For instance, 1.4% of those ages 13 to 17 identify as transgender whereas 0.3% of those ages 65 and older identify as transgender. While these age group differences appear to be only statistically significant between the oldest and youngest age groups, this age trend among transgender individuals is consistently found in studies using population-based samples.[16]

Table 1. Percent of each age group that identifies as transgender in the U.S.

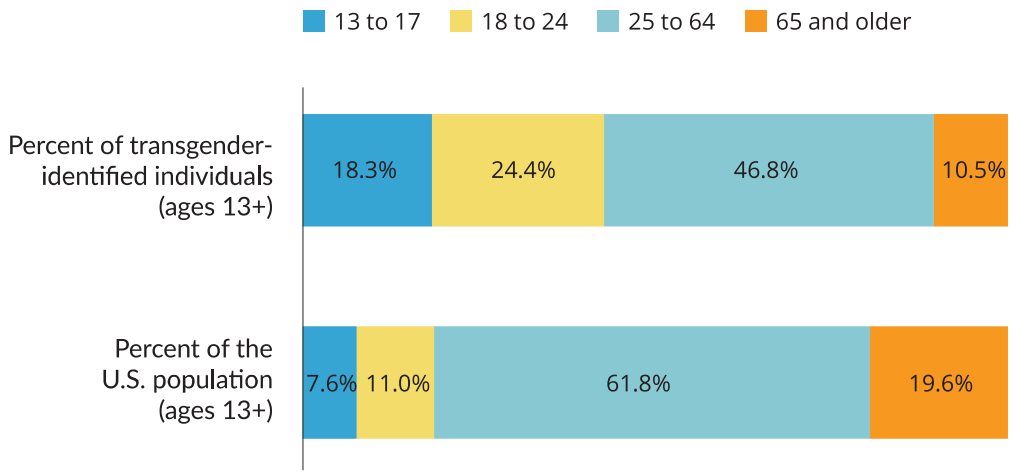
	PERCENT	NUMBER
13 to 17	1.4%	300,100
18 to 24	1.3%	398,900
25 to 64	0.5%	766,500
65 and older	0.3%	171,700
13 and older	0.6%	1,637,200

When looking at the age distribution of those who identify as transgender, it appears that the age distribution of transgender-identified individuals (ages 13 and older) is younger compared to the U.S. population. For instance, those ages 13 to 17 comprise 18.3% of transgender-identified individuals (ages 13 and older), whereas that age group comprises 7.6% of the U.S. population (ages 13 and older). This age trend is consistent with prior research that has found transgender individuals have a lower mean age than cisgender individuals.[17]

[16] Jones, J. M. (2022). *LGBT Identification in U.S. Ticks up to 7.1%.* Gallup. https://news.gallup.com/poll/389792/lgbt-identification-ticks-up.aspx; Herman, J.L., Flores, A.R., Brown, T.N.T., Wilson, B.D.M., & Conron, K.J. (2017). *Age of Individuals who Identify as Transgender in the United States.* Los Angeles, CA: The Williams Institute.; Feldman, J.L., Luhur, W.E., Herman, J.L., Poteat, T., Meyer, I.H. (2021). Health and health care access in the US transgender population health (TransPop) survey. *Andrology, 9*, 1707– 1718. https://doi.org/10.1111/andr.13052.

[17] Feldman, J.L., Luhur, W.E., Herman, J.L., Poteat, T., Meyer, I.H. (2021). Health and health care access in the US transgender population health (TransPop) survey. *Andrology, 9*, 1707– 1718. https://doi.org/10.1111/andr.13052; Andrew R. Flores, Ilan H. Meyer, Lynn Langton, Jody L. Herman. (2021). Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017–2018. *American Journal of Public Health 111*(4), 726-729; Statistics Canada. (2022). Canada is the first country to provide census data on transgender and non-binary people. *The Daily*. https://www150.statcan.gc.ca/n1/daily-quotidien/220427/dq220427b-eng.htm?HPA=1.

Figure 2. Age distribution among those who identify as transgender and among the U.S. population (ages 13 and older)



Race/Ethnicity

Similar to age, we look at race and ethnicity of individuals who identify as transgender in two different ways: the percentage of each race/ethnicity group that identifies as transgender and the racial and ethnic distribution of the transgender-identified population compared to the racial and ethnic distribution of the U.S. population. We stratify this analysis by age, separately describing the race/ethnicity of youth and adults. Tables 2 and 3 describe the percentage of each racial/ethnic group that identifies as transgender, along with the population estimate. Differences between racial/ethnic groups are not statistically significant, but our findings do reflect prior research with population-based samples that have found that Latinx people, American Indian or Alaska Native, and biracial/multiracial groups appear more likely than White people to identify as transgender.[18]

Table 2. Percent of each racial/ethnic group that identifies as transgender in the U.S., among adults (ages 18 and older)

	PERCENT	NUMBER
White	0.5%	731,200
Black	0.6%	173,500
Asian	0.5%	77,300
AIAN	0.9%	14,500
Latinx	0.7%	289,700
Biracial, Multiracial, or Other Race/Ethnicity	1.0%	50,900

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

[18] Feldman, J.L., Luhur, W.E., Herman, J.L., Poteat, T., Meyer, I.H. (2021). Health and health care access in the US transgender population health (TransPop) survey. *Andrology*, *9*, 1707– 1718. https://doi.org/10.1111/andr.13052; Meyer, I. H., Brown, T. N., Herman, J. L., Reisner, S. L., & Bockting, W. O. (2017). Demographic Characteristics and Health Status of Transgender Adults in Select US Regions: Behavioral Risk Factor Surveillance System, 2014. *American Journal of Public Health*, *107*(4), 582–589. https://doi.org/10.2105/AJPH.2016.303648.

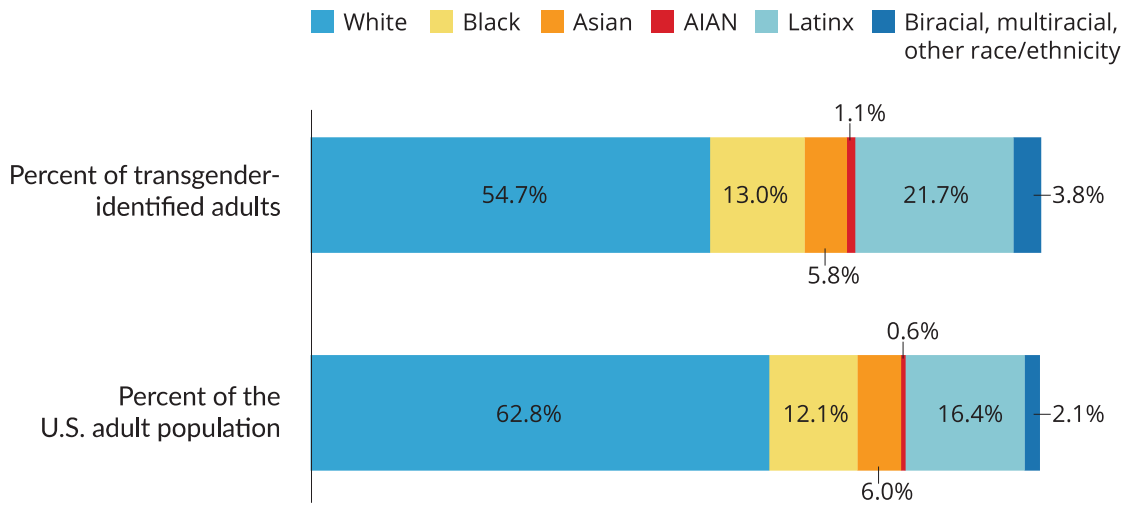
Table 3. Percent of each racial/ethnic group that identifies as transgender in the U.S., among youth (ages 13 to 17)

	PERCENT	NUMBER
White	1.3%	138,800
Black	1.4%	39,600
Asian	1.0%	10,800
AIAN	1.8%	3,000
Latinx	1.8%	92,900
Biracial, Multiracial, or Other Race/Ethnicity	1.5%	15,000

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

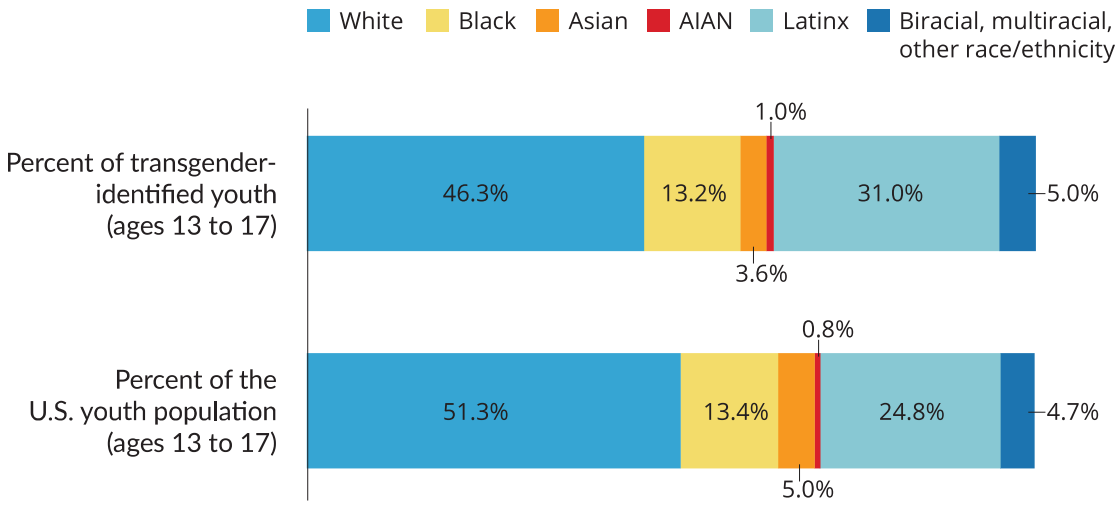
The racial and ethnic distribution of adults and youth appear generally similar to the racial/ethnic distribution of the U.S. population. However, transgender-identified youth and adults appear more likely to report being Latinx and less likely to report being White, as compared to the U.S. population (see Figures 3 and 4). As described above, this trend is in keeping with prior research.[19]

Figure 3. Race/ethnicity of adults who identify as transgender and of the U.S. population (ages 18 and older)



[19] Ibid.

Figure 4. Race/ethnicity of youth who identify as transgender and of the U.S. population (ages 13-17)



REGIONAL AND STATE POPULATION ESTIMATES, BY AGE AND RACE

Adults and youth who identify as transgender in the U.S. reside in all 50 states and the District of Columbia. Table 4 describes the percentage of each age group that identifies as transgender, and the population estimate for each, in the four U.S. regions, and in each state within each region. Overall, for youth ages 13 to 17, we find that 1.4% identify as transgender, which is about 300,000 youth. Our estimates of youth ages 13 to 17 who identify as transgender are similar across U.S. regions, ranging from 1.8% in the Northeast to 1.2% in the Midwest. At the state level, our estimates range from 3.0% of youth ages 13 to 17 identifying as transgender in New York to 0.6% in Wyoming.[20] Among all adults, we find that 0.5%, or over 1.3 million, identifies as transgender. Our estimates of adults in U.S. regions who identify as transgender range from 0.6% in the Northeast to 0.4% in the Midwest. At the state level, our estimates range from 0.9% of adults identifying as transgender in North Carolina to 0.2% in Missouri.[21]

[20] Appendix Table A4 describes 95% credible intervals for our national, regional, and state level estimates for youth and adults by age group. This table can serve as a reference to help determine if estimates across regions and states appear to be significantly different from each other. For instance, the percent of youth in New York who identify as transgender (3.0%) is significantly higher than 10 other states, meaning the upper bound estimate in these 10 states is lower than the lower bound estimate for New York. For adults, the percent that identifies as transgender in North Carolina (0.9%) is significantly higher than 19 other states.

[21] The District of Columbia is not included in this range for states. DC had a notably high percentage of transgender-identified adults (0.92%), but is considered an outlier compared to the rest of the U.S. states due to its unique geographic (urban) and demographic profile.

Table 4. Regional and state-level estimates of those who identify as transgender in the U.S. population by age group (ages 13 and older)

	13-17		18-24		25-64		65+		ALL ADULTS 18+	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
United States	1.43%	300,100	1.31%	398,900	0.45%	766,500	0.32%	171,700	0.52%	1,337,100
WEST	1.62%	81,700	1.14%	82,600	0.51%	209,400	0.30%	36,400	0.54%	328,500
Alaska	1.23%	500	1.51%	1,000	0.65%	2,500	0.34%	300	0.70%	3,900
Arizona	1.54%	7,300	1.92%	13,000	0.71%	25,200	0.23%	3,000	0.73%	41,200
California	1.93%	49,100	0.70%	25,500	0.50%	105,100	0.34%	19,500	0.49%	150,100
Colorado	1.14%	4,200	2.09%	10,800	0.51%	15,800	0.06%	500	0.60%	27,000
Hawaii	2.15%	1,700	1.50%	1,800	0.66%	4,800	0.44%	1,200	0.70%	7,800
Idaho	0.76%	1,000	0.92%	1,500	0.51%	4,500	0.36%	1,000	0.52%	7,000
Montana	0.78%	500	0.70%	700	0.47%	2,500	0.13%	300	0.41%	3,400
Nevada	1.67%	3,300	0.87%	2,200	0.35%	5,700	0.04%	200	0.34%	8,100
New Mexico	2.62%	3,700	0.81%	1,600	0.62%	6,500	0.73%	2,800	0.67%	10,900
Oregon	1.18%	2,900	1.57%	5,700	0.52%	11,500	0.35%	2,700	0.59%	19,900
Utah	0.83%	2,100	1.34%	4,800	0.47%	7,300	0.43%	1,600	0.60%	13,700
Washington	1.09%	5,000	2.01%	13,300	0.41%	16,900	0.26%	3,200	0.56%	33,300
Wyoming	0.56%	200	1.21%	700	0.41%	1,200	0.29%	300	0.48%	2,100
MIDWEST	1.24%	54,500	1.27%	81,200	0.34%	119,900	0.26%	30,100	0.44%	231,200
Illinois	1.66%	13,700	1.94%	22,300	0.24%	16,300	0.24%	4,800	0.44%	43,400
Indiana	0.91%	4,100	1.18%	7,800	0.45%	15,100	0.27%	2,900	0.50%	25,800
Iowa	1.07%	2,100	0.45%	1,400	0.28%	4,400	0.23%	1,200	0.29%	7,100
Kansas	1.05%	2,100	1.92%	5,700	0.35%	5,000	0.34%	1,600	0.56%	12,400
Michigan	1.41%	8,900	1.13%	10,800	0.38%	19,600	0.14%	2,600	0.42%	33,000
Minnesota	0.94%	3,500	1.62%	7,900	0.52%	15,200	0.32%	2,900	0.60%	26,000
Missouri	0.75%	2,900	0.71%	3,900	0.07%	2,100	0.33%	3,500	0.20%	9,500
Nebraska	0.94%	1,200	1.12%	2,100	0.37%	3,600	0.28%	900	0.45%	6,600
North Dakota	1.16%	500	1.02%	800	0.36%	1,400	0.26%	300	0.43%	2,500
Ohio	1.15%	8,500	1.14%	12,200	0.45%	27,100	0.35%	7,200	0.51%	46,500
South Dakota	0.90%	500	1.12%	900	0.37%	1,600	0.27%	400	0.44%	2,900
Wisconsin	1.75%	6,400	0.99%	5,300	0.29%	8,500	0.17%	1,700	0.34%	15,500
SOUTH	1.25%	102,200	1.33%	154,500	0.45%	295,500	0.36%	73,600	0.54%	523,600
Alabama	1.08%	3,400	1.18%	5,400	0.42%	10,400	0.30%	2,500	0.48%	18,400
Arkansas	0.88%	1,800	3.59%	9,800	0.24%	3,500	0.58%	2,900	0.70%	16,200
Delaware	0.96%	600	2.36%	2,000	0.69%	3,400	0.49%	900	0.82%	6,300
District of Columbia	2.11%	600	2.21%	1,600	0.77%	3,200	0.56%	500	0.92%	5,300
Florida	1.32%	16,200	1.28%	22,400	0.49%	53,900	0.41%	18,600	0.55%	94,900
Georgia	1.18%	8,500	1.24%	12,700	0.48%	26,800	0.61%	9,200	0.60%	48,700
Kentucky	0.68%	2,000	1.27%	5,300	0.43%	9,900	0.32%	2,400	0.51%	17,700
Louisiana	1.30%	4,000	0.79%	3,300	0.45%	10,700	0.23%	1,700	0.44%	15,700
Maryland	2.08%	8,000	1.90%	10,100	0.38%	12,200	0.18%	1,700	0.51%	24,000
Mississippi	1.20%	2,400	0.81%	2,400	0.37%	5,500	0.33%	1,600	0.42%	9,600

	13-17		18-24		25-64		65+		ALL ADULTS 18+	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
North Carolina	1.27%	8,500	2.46%	24,000	0.73%	38,400	0.53%	8,900	0.87%	71,300
Oklahoma	1.00%	2,600	2.52%	9,300	0.44%	8,500	0.19%	1,100	0.63%	18,900
South Carolina	1.14%	3,700	0.87%	4,100	0.43%	11,300	0.38%	3,500	0.47%	19,000
Tennessee	0.74%	3,100	1.95%	11,700	0.44%	15,000	0.09%	1,000	0.52%	27,700
Texas	1.42%	29,800	0.71%	19,800	0.42%	61,500	0.31%	11,600	0.43%	92,900
Virginia	1.18%	6,200	1.11%	8,800	0.40%	18,000	0.34%	4,600	0.47%	31,400
West Virginia	0.68%	700	1.18%	1,800	0.36%	3,200	0.22%	800	0.40%	5,700
NORTHEAST	1.82%	61,700	1.58%	80,600	0.48%	141,600	0.32%	31,600	0.57%	253,800
Connecticut	1.64%	3,700	1.35%	4,600	0.45%	8,300	0.38%	2,400	0.54%	15,300
Maine	1.59%	1,200	1.44%	1,600	0.47%	3,300	0.34%	1,000	0.53%	5,900
Massachusetts	1.44%	5,900	2.30%	15,700	0.44%	16,100	0.46%	5,400	0.67%	37,100
New Hampshire	0.84%	700	1.53%	1,900	0.48%	3,500	0.34%	900	0.57%	6,300
New Jersey	0.67%	3,800	1.67%	12,700	0.52%	24,800	0.38%	5,600	0.62%	43,100
New York	3.00%	34,800	1.37%	24,100	0.46%	47,600	0.31%	10,100	0.53%	81,800
Pennsylvania	1.30%	10,000	1.50%	16,900	0.51%	33,400	0.24%	5,600	0.55%	56,000
Rhode Island	1.93%	1,200	2.11%	2,300	0.54%	3,000	0.21%	400	0.66%	5,700
Vermont	1.33%	500	1.26%	800	0.48%	1,500	0.29%	400	0.53%	2,700

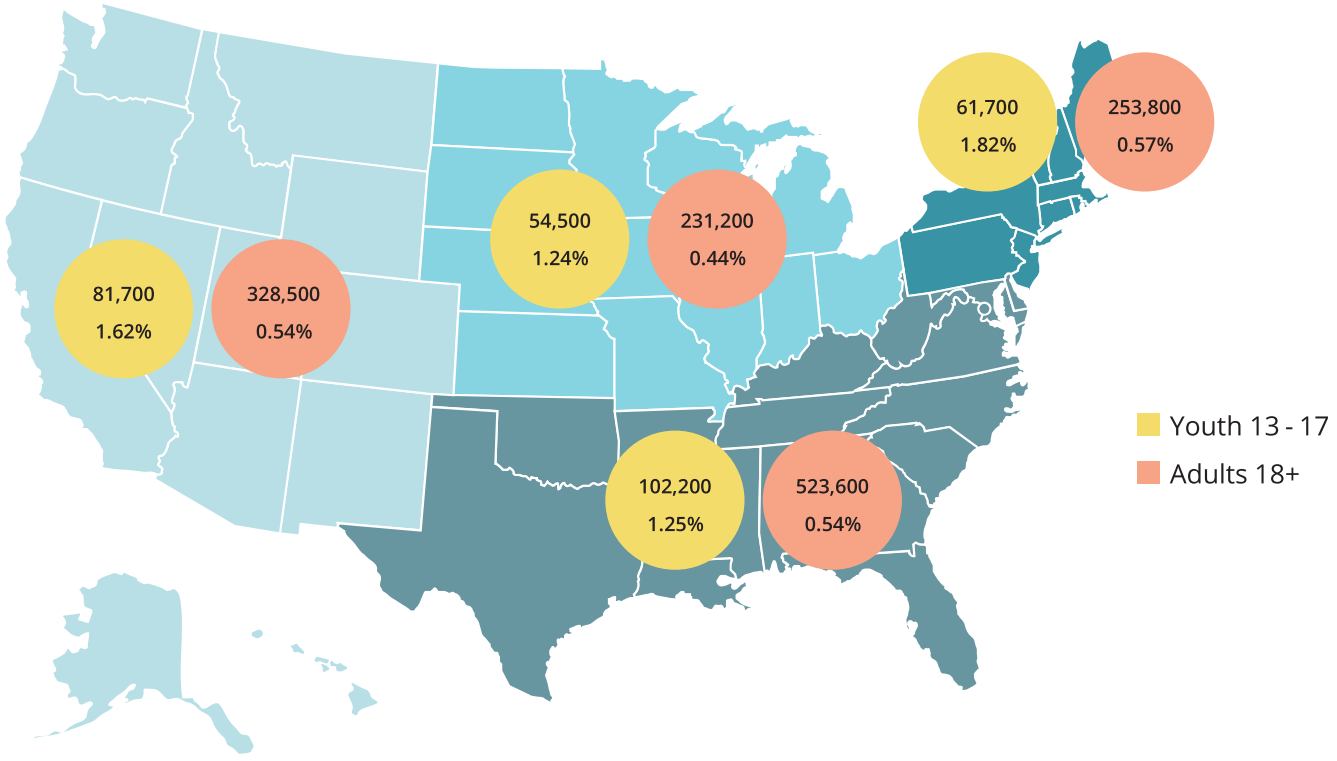


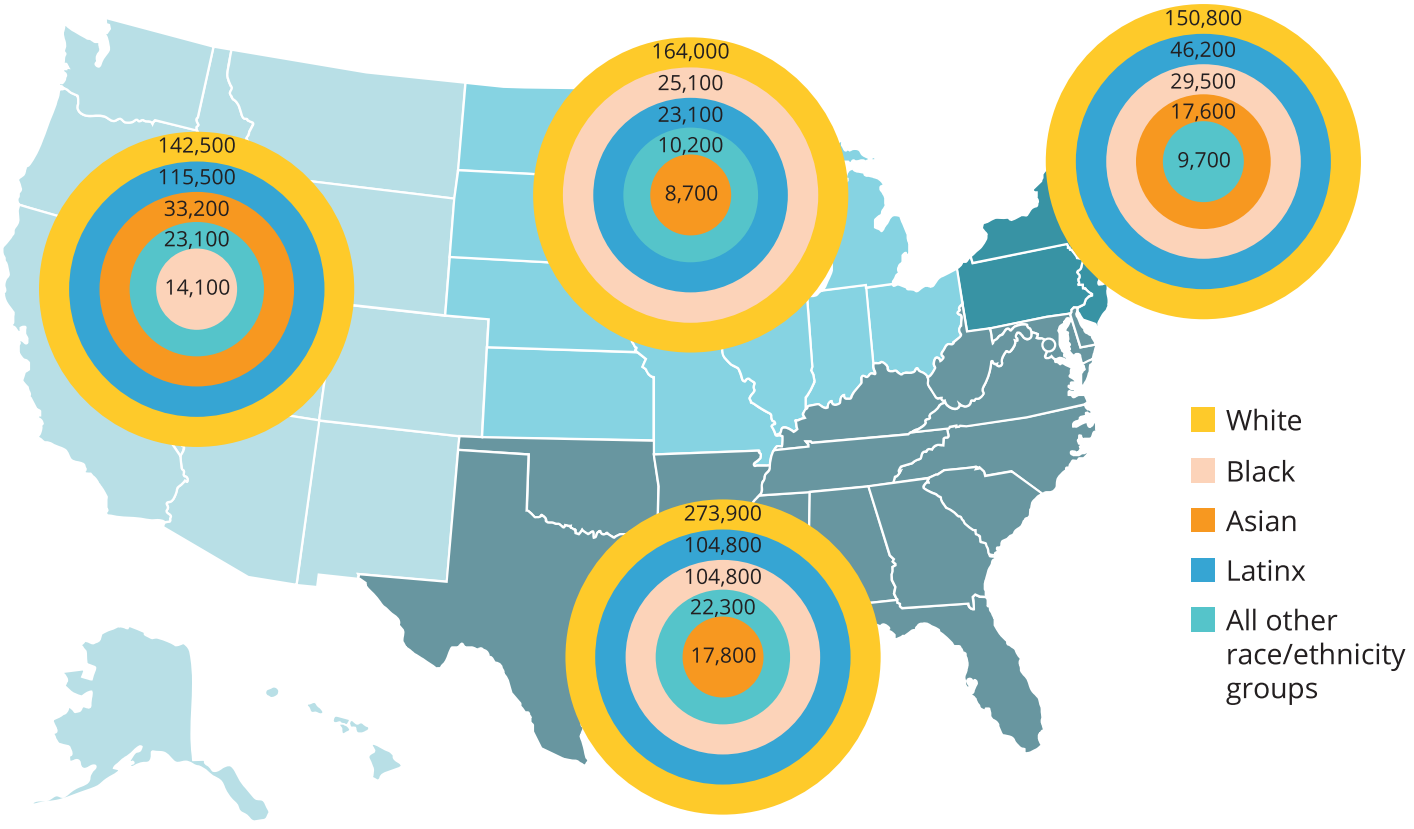
Table 5 describes the percentage and the population estimate of each racial/ethnic group that identifies as transgender nationally, in the four U.S. regions, and in each state within each region. Due to sample size limitations, our estimates are limited only to adults. Furthermore, we must combine into one heterogenous category all those reporting a race or ethnicity other than White, Black, Asian, and Latinx, which includes Native American, Alaska Native, Native Hawaiian, Pacific Islander, biracial, multiracial, and individuals with other racial/ethnic identities.

Table 5. Regional and state-level estimates of those who identify as transgender in the U.S. population by race/ethnicity (adults ages 18+ only)

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
United States	0.46%	731,200	0.56%	173,500	0.50%	77,300	0.69%	289,700	0.94%	65,400
WEST	0.45%	142,500	0.51%	14,100	0.48%	33,200	0.70%	115,500	0.91%	23,100
Alaska	0.49%	1,900	0.70%	100	0.67%	300	0.78%	300	1.12%	1,200
Arizona	0.52%	18,700	0.66%	1,800	0.63%	1,400	0.91%	15,600	1.17%	3,700
California	0.40%	44,200	0.50%	8,000	0.47%	20,900	0.70%	69,900	0.74%	7,100
Colorado	0.50%	16,200	0.64%	1,100	0.61%	1,000	0.86%	7,500	1.04%	1,300
Hawaii	0.50%	1,400	0.59%	100	0.58%	3,500	0.80%	800	1.08%	1,900
Idaho	0.46%	5,300	0.63%	<100	0.49%	100	0.76%	1,200	0.82%	300
Montana	0.38%	2,800	0.57%	<100	0.38%	<100	0.62%	200	0.68%	400
Nevada	0.39%	3,300	0.50%	700	0.45%	700	0.69%	2,900	0.54%	500
New Mexico	0.47%	3,200	0.63%	200	0.56%	200	0.76%	5,800	0.95%	1,500
Oregon	0.53%	13,700	0.65%	400	0.64%	1,100	0.89%	3,300	1.02%	1,400
Utah	0.54%	9,800	0.66%	100	0.67%	500	0.82%	2,400	1.06%	800
Washington	0.49%	20,300	0.61%	1,400	0.58%	3,400	0.86%	5,400	0.98%	2,900
Wyoming	0.44%	1,700	0.58%	<100	0.59%	<100	0.75%	300	0.85%	100
MIDWEST	0.40%	164,000	0.48%	25,100	0.48%	8,700	0.64%	23,100	0.87%	10,200
Illinois	0.40%	23,900	0.49%	6,300	0.43%	2,400	0.65%	9,400	0.85%	1,400
Indiana	0.46%	19,500	0.53%	2,500	0.56%	700	0.70%	2,200	1.03%	1,000
Iowa	0.31%	5,700	0.41%	300	0.41%	200	0.53%	600	0.56%	200
Kansas	0.49%	8,600	0.60%	800	0.61%	400	0.82%	1,900	1.04%	700
Michigan	0.40%	23,400	0.48%	4,700	0.46%	1,100	0.66%	2,200	0.79%	1,500
Minnesota	0.53%	19,300	0.71%	1,700	0.72%	1,500	0.88%	1,800	1.27%	1,600
Missouri	0.34%	7,300	0.41%	1,200	0.41%	200	0.52%	500	0.37%	400
Nebraska	0.40%	4,800	0.54%	400	0.53%	200	0.71%	1,000	0.89%	300
North Dakota	0.39%	2,000	0.49%	100	0.59%	100	0.74%	200	0.70%	200
Ohio	0.48%	35,400	0.56%	6,000	0.53%	1,200	0.70%	2,100	1.03%	1,900
South Dakota	0.39%	2,200	0.52%	100	0.61%	100	0.63%	100	0.82%	500
Wisconsin	0.35%	11,900	0.48%	1,100	0.47%	600	0.56%	1,300	0.65%	600
SOUTH	0.48%	273,900	0.58%	104,800	0.51%	17,800	0.66%	104,800	0.99%	22,300
Alabama	0.44%	11,200	0.54%	5,400	0.46%	200	0.72%	900	0.80%	600
Arkansas	0.55%	11,200	0.62%	2,600	0.72%	300	0.89%	1,500	1.16%	600
Delaware	0.65%	3,600	0.81%	1,400	0.70%	200	1.15%	800	1.77%	300
District of Columbia	0.77%	1,800	0.99%	2,400	0.98%	300	1.11%	600	1.42%	200
Florida	0.46%	44,300	0.62%	15,100	0.55%	2,700	0.69%	29,500	0.97%	3,300
Georgia	0.53%	23,700	0.61%	15,700	0.57%	2,000	0.84%	5,800	1.04%	1,600
Kentucky	0.49%	14,500	0.55%	1,500	0.53%	300	0.76%	800	1.09%	600
Louisiana	0.43%	8,700	0.51%	5,200	0.50%	300	0.60%	1,000	0.71%	500
Maryland	0.46%	11,200	0.52%	7,200	0.49%	1,500	0.75%	3,200	0.88%	1,100
Mississippi	0.40%	5,100	0.47%	3,800	0.43%	100	0.65%	400	0.77%	200

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
North Carolina	0.71%	41,400	0.84%	15,700	0.80%	2,100	1.17%	8,200	1.59%	3,800
Oklahoma	0.53%	10,900	0.60%	1,300	0.66%	500	0.88%	2,400	1.00%	3,900
South Carolina	0.43%	11,300	0.53%	5,400	0.49%	300	0.69%	1,300	0.90%	600
Tennessee	0.48%	19,400	0.56%	4,900	0.55%	600	0.81%	1,900	0.96%	900
Texas	0.36%	32,500	0.44%	10,600	0.40%	4,300	0.58%	42,800	0.69%	2,700
Virginia	0.43%	17,900	0.51%	6,300	0.47%	2,100	0.66%	3,700	0.92%	1,500
West Virginia	0.42%	5,200	0.44%	200	0.40%	<100	0.55%	100	0.75%	100
NORTHEAST	0.51%	150,800	0.61%	29,500	0.58%	17,600	0.78%	46,200	1.04%	9,700
Connecticut	0.46%	9,100	0.62%	1,700	0.55%	700	0.76%	3,200	0.96%	600
Maine	0.52%	5,300	0.63%	100	0.74%	100	0.80%	100	0.99%	200
Massachusetts	0.58%	23,900	0.74%	2,800	0.73%	2,800	0.96%	5,800	1.21%	1,800
New Hampshire	0.54%	5,500	0.63%	100	0.60%	200	0.86%	300	1.18%	200
New Jersey	0.49%	20,800	0.61%	5,800	0.52%	3,800	0.79%	11,200	1.11%	1,400
New York	0.46%	39,800	0.56%	12,100	0.55%	7,500	0.70%	19,100	0.92%	3,300
Pennsylvania	0.50%	40,200	0.61%	6,500	0.58%	2,100	0.78%	5,300	1.09%	1,800
Rhode Island	0.57%	3,700	0.71%	300	0.72%	200	0.89%	1,100	1.14%	300
Vermont	0.51%	2,400	0.67%	<100	0.55%	<100	0.91%	100	1.04%	100

Note: White, Black, and Asian are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. All other race/ethnicity groups are non-Hispanic.



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CONCLUSION

Based on our estimates from 2016-2017 and the current report, the percentage and number of adults who identify as transgender has remained steady over time in the United States. The availability of the YRBS data has given us a more direct look into youth gender identity and provides better data than was previously available to us for estimating the size and characteristics of the youth population. Youth ages 13 to 17 comprise a larger share of the transgender-identified population than we previously estimated, currently comprising about 18% of the transgender-identified population in the U.S., up from 10% previously. Our findings regarding gender, age, and race/ethnicity are in keeping with existing research, which has found that nonbinary adults comprise nearly a third of transgender adults, transgender people are on average younger than the general population, and transgender people are more likely to report being Latinx and less likely to report being White.

Our estimates described in this report were made possible by advances in gender identity data collection over the past five years. More states have included the BRFSS optional gender identity module over the years and the availability of YRBS data has given us a direct look into youth gender identity. In this study, we were also able, for the first time, to produce national and state-level population estimates for Asian adults and national population estimates for American Indian and Alaska Native adults who identify as transgender. Despite these advances, our study required the use of advance statistical modeling in order to produce our estimates. This is because several states do not include the optional gender identity module in their BRFSS surveys. Other surveys that identify transgender respondents are still emerging as potential data sources for similar population estimates, like Household Pulse Survey, or do not yet exist. To improve the availability of data about the U.S. transgender population, and negate the need for advanced statistical modeling to overcome limitations in the current data, the CDC should make the BRFSS gender identity module part of the core survey rather than an optional module. Furthermore, the federal government should include questions to identify transgender people in all federal surveys. Visibility for the transgender people in our federal surveys would further bring to light the characteristics, experiences, well-being, and needs of the transgender population in the United States.

METHODS

The BRFSS collects demographic and health information from representative samples at the state level. In addition to a core questionnaire provided by the CDC that coordinates the BRFSS, states can add optional modules that ask unique sets of questions. One module asks about sexual orientation and gender identity (SOGI). Similarly, the YRBS allows states to include a module that asks about SOGI. The BRFSS module asks, “Do you consider yourself to be transgender?” with response options, “Yes; No; Don’t know/not sure” or respondents could refuse to answer. If a respondent expresses confusion, then interviewers provide definitions of transgender and/or gender nonconforming. If respondents affirmatively answer the question, they are then asked if they consider themselves to be male-to-female; female-to-male; or gender nonconforming. The YRBS module asks, “Some people describe themselves as transgender when their sex at birth does not match the way they think or feel about their gender. Are you transgender?” with response options, “No; Yes, I am transgender; Not sure if I am transgender, Don’t know what the question is asking.”

We pool the 2017-2020 BRFSS surveys; 41 states used the SOGI module one or more times in this timeframe (*n* = 1,707,678). We pool the 2017 and 2019 YRBS where 15 states used the module at least one during this time period (*n* = 372,214). We analyze adults and youth separately considering they come from different sources. All respondents who were asked whether they identify as transgender are coded as 1 if they did or 0 if they did not, which includes don't know responses, not sure responses, and refusals to answer.

We directly analyze the results from any state that implemented the sexual orientation and gender identity module. For example, the estimates for the 41 states in the BRFSS will be the same as the weighted results one would obtain from direct analyses of available 2017-2020 BRFSS data for that state.[22] The pooled estimates do not account for various years.

The strategy we employ for states where transgender identification is not observed, because the SOGI module was not used, combines small area estimation strategies common in demographic research with poststratification techniques common in survey research.[23] This strategy is called multilevel regression and poststratification (MRP). We fit a multilevel model relying on demographics and state of residence. The general model can be summarized in two stages. The first stage performs a multilevel regression to data. The following is the specification for the BRFSS:

$$y_i = g\left(b_0 + b_1 * \text{cell\_int} + \alpha^{j}_{\text{race}_i} + \alpha^{k}_{\text{age}_i} + \alpha^{l}_{\text{educ}_i} + \alpha^{m}_{\text{age.educ}_i} + \alpha^{s}_{\text{state}_i}\right).$$

where $g(.)$ is a link function, and α's represent random coefficients for demographic and geographic predictors. All demographic random effects are distributed normally, $\alpha \sim N\ (0,\sigma^2)$.

In building our estimation models, we included covariates that are correlated with the percentage of transgender or LGBT people within a state and where there are population estimates from the United States Census Bureau. Individual-level and contextual covariates are related to identification, disclosure, and may be associated with migration to a state. Evaluations of models employing this estimation strategy for statewide estimates show that even using a single demographic predictor, such as race, in addition to geographic predictors produce estimates that out-perform disaggregated analysis.[24] Studies document that LGBT and transgender populations tend to be younger,[25] more

[22] This is true for all overall estimates. However, for subgroups we rely on the model described in this note and then generalize those model results to the estimated population total of people who identify as transgender. We do this because of small cell sizes and unstable direct estimates.

[23] Park, D.K., Gelman, A., & Bafumi, J. (2004). Bayesian multilevel estimation with poststratification: State-level estimates from national polls. *Political Analysis*, *12*, 375-385.

[24] Lax, J. R., and Phillips, J. H. (2009). How should we estimate public opinion in the states? *American Journal of Political Science*, *53*(1), 107-121.

[25] James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L. A., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality; Meyer, I.H., Wilson, B.D.M., & O'Neill, K. (2021). LGBTQ People in the US: Select Findings from the Generations and TransPop Studies. Los Angeles, CA: The Williams Institute.

racially and ethnically diverse,[26] and have levels of educational attainment that differ from non-LGBT[27] or cisgender populations.[28] Further, varying social contexts may create environments that are either more welcoming to LGBT people encouraging greater identity uptake or migration.[29] Thus, the models rely on basic demographics and state-level contextual characteristics that may covary with transgender status.

We use six race and ethnicity categories. We also use 10 age categories ranging from 18 to over 65 years old. Educational attainment is comprised of four categories (i.e., less than a high school diploma or equivalent, a high school diploma or equivalent, some college education, and those with a college degree or more education). We also use the interaction of age and education categories, which is a standard procedure in survey weighting as age and educational attainment are interrelated. At times, the BRFSS module may or may not be used in a cell phone interview depending on a person's residency,[30] so it is used as a covariate to account for a systematic missing data pattern. The geographic-level coefficients are given group-level covariates:

$$\alpha_s \sim \mathrm{N}\left(\alpha^r_{\mathrm{region}_s} + G^s U, \sigma^2_{\mathrm{state}}\right),$$

where G^s is a matrix of $(s \times j)$ matrix of j group-level variables and U is a vector of length j regression coefficients. We include statewide contextual variables such as race/ethnic composition of the state, the percentage of same-sex couple households in the state, statewide measures of public opinion on LGBT rights, and median income in a state. In total, the percentage of same-sex couple households in the state was among the strongest predictors in the current model. We further add a third level to the model for regional groupings of the states, which is also distributed normally.[31]

The YRBS was analyzed with the same approach, except there were only two age groups (13-14; 15-17), and we do not use educational attainment or cell phone interviews. Our analyses use the sampling weights from both the BRFSS and YRBS. We rescale these weights to account for multilevel modeling using Carle's method A.[32] All models are fit in R relying on maximum likelihood estimation.[33] The second step of MRP is to use the fitted regression and generalize it over known population distributions. For example, if $g(.)$ were a logistic regression, then the probabilities an individual identifies with a group can be predicted for each demographic and geographic characteristic (θ_C),

[26] Flores, A. R., Langton, L., Meyer, I. H., and Romero, A. P. (2020). Victimization rates and traits of sexual and gender minorities in the United States: Results from the National Crime Victimization Survey, 2017. *Science Advances*, *6*: eaba6910.

[27] Ibid.

[28] Badgett, M. V. L., Choi, S. K., & Wilson, B. D. M., (2019, October). *LGBT poverty in the United States: A study of differences between sexual orientation and gender identity groups*. Los Angeles, CA: The Williams Institute.

[29] Esposito, E., Calanchini, J. (2022). Examining selective migration as attitudinal fit versus gay migration. *Journal of Experimental Social Psychology*, *101*, 104307.

[30] Jesdale, B.M. (2021). Sources of missing sexual orientation and gender identity data in the Behavioral Risk Factor Surveillance System. *American Journal of Preventative Medicine*, *61*(2), 281-290.

[31] Given the uniqueness of the District of Columbia, it is treated as its own state and region in this process.

[32] Carle, A.C. (2009). Fitting multilevel models in complex survey data with design weights: Recommendations. *BMV Medical Research Methodology*, *9*, https://doi.org/10.1186/1471-2288-9-49

[33] Bates, D., Máchler, M., Bolker, B., and Walker, S. (2015). Fitting linear mixed-effects models using lme4. *Journal of Statistical Software*, *67*, 1-48.

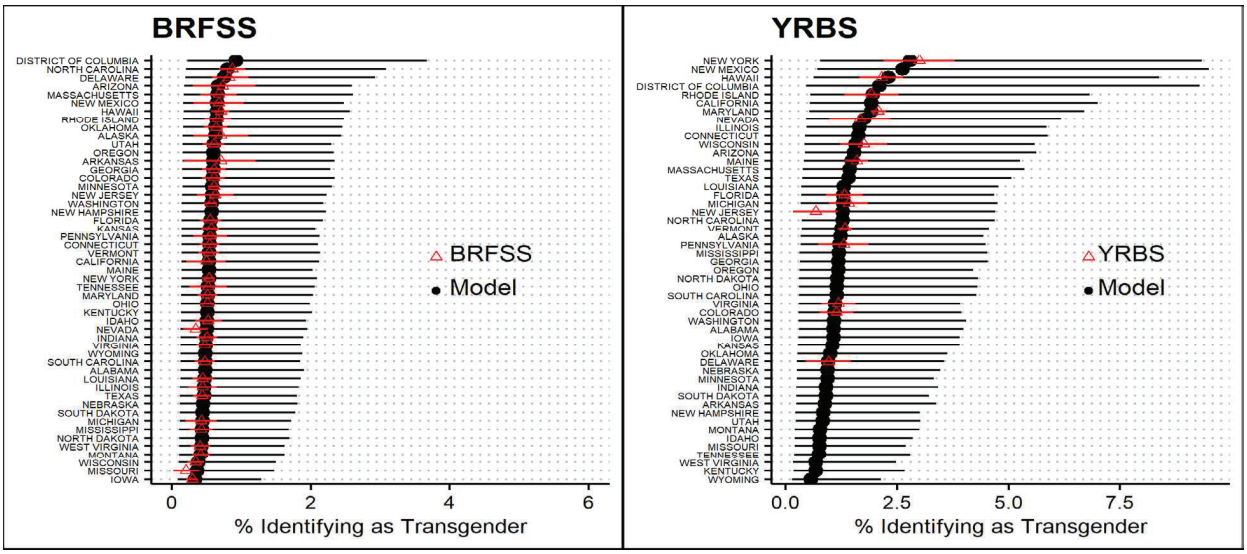
where max $(c) = j * k * l * s$. Every fitted value can then be weighted by the size of the population, N_C, and these weighted values summed by state for population size and further divided by the state's population for a population proportion:

$$\text{Population size}_s = \sum_{c \in s} \theta_c * N_c \; ; \; \text{Population Proportion}_s = \frac{\sum_{c \in s} \theta_c * N_c}{\sum_{c \in s} N_c}.$$

We use the 2019 three-year estimates from the American Community Survey for our poststratification dataset, which we retrieved through IPUMS. For the states where data are observed, we multiply the 2019 3-year estimates to the proportion of people identifying as transgender, providing us with a population estimate. For the states where data are not observed, model-based estimates are used, and we incorporate model uncertainty in predictions when providing confidence intervals of our estimates.[34]

Since our estimation strategy produces two sets of estimates for states where data are observed (i.e., direct estimates and model-based estimates). We compared these two sets of estimates. Overall, they tended to strongly correlate with one another (e.g., correlation above 0.80), suggesting that the model-based estimates perform similar to direct estimation. Figure 5 compares model-based estimates to direct estimates at the state level. We see very few deviations that all fall beyond the margin of error. The three exceptions are Missouri and Nevada in the BRFSS and New Jersey in the YRBS, where the direct estimates are smaller than the model-based estimates. These deviations all fall well within confidence intervals. While we report direct estimates whenever possible, these discrepancies suggest that model-based estimates may better adjust weighted estimates to population targets without producing bias. We still opt to be conservative in our reporting and rely on direct estimates whenever the data are available.

Figure 5. Model-based estimates and direct estimates from BRFSS and YRBS



[34] There is no consensus about the best method for uncertainty estimation for multilevel models. We use the predictInterval function from the merTools package in R for uncertainty estimation. Ideally, a fully Bayesian model would be preferred, but we were limited by computing power.

To ensure subgroup estimates summed to national estimates, the subgroup counts of people who identify as transgender were divided by total counts of people who identify as transgender and the resulting percentage was then multiplied by the total population estimate to create an adjusted subgroup population estimate. For example, the population estimates of adults who identify as transgender by age group in California were added together to create a population estimate of the total number of adults who identify as transgender in California. The estimated number of 18- to 24-year-old transgender people in California is then divided by this total, to create an estimate of what percentage of transgender adults in California are 18 to 24. This percentage is then multiplied by the total estimated number of adults who identify as transgender in California. The resulting population estimate for that subgroup is only slightly different than the original subgroup estimate but it now correctly adds to the total estimated number of adults who identify as transgender in California.

To create national estimates, count estimates for each state were summed and then divided by the total population estimate. For example, the estimated number of Black adults who identify as transgender in the United States was summed across all states and then divided by the total estimated number of Black adults in the U.S. This created a national estimate of the percentage of Black adults who identify as transgender. A similar approach was used to create regional estimates.

All numbers were rounded to the nearest 100th. Some lower-bound credible intervals reported below were negative; these were truncated to zero.

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APPENDIX

Table A1. Percent of each age group that identifies as transgender in the U.S.

	PERCENT [LB, UB]	NUMBER [LB, UB]
13 to 17	[0.61%, 4.02%]	[128,834, 843,773]
18 to 24	[0.43%, 2.43%]	[130,902, 736,873]
25 to 64	[0.23%, 0.74%]	[399,265, 1,260,344]
65 and older	[0.12%, 0.57%]	[64,824, 310,718]
Total (ages 13+)	[0.26%, 1.14%]	[723,825, 3,151,708]

Table A2. Percent of each racial/ethnic group that identifies as transgender in the U.S., among adults (ages 18 and older)

	PERCENT [LB, UB]	NUMBER [LB, UB]
White	[0.28%, 0.72%]	[450,300, 1,151,079]
Black	[0.36%, 0.84%]	[110,698, 258,977]
Asian	[0.31%, 0.74%]	[47,451, 113,294]
AIAN	[0.50%, 1.39%]	[8,327, 23,097]
Latinx	[0.41%, 1.00%]	[172,709, 420,079]
Biracial, multiracial, or other race/ethnicity	[0.58%, 1.42%]	[40,459, 98,207]
Total	[0.32%, 0.77%]	[816,644, 1,964,330]

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

Table A3. Percent of each racial/ethnic group that identifies as transgender in the U.S., among youth (ages 13 to 17)

	PERCENT [LB, UB]	NUMBER [LB, UB]
White	[0.34%, 4.63%]	[36,900, 498,000]
Black	[0.38%, 5.05%]	[10,700, 142,250]
Asian	[0.28%, 3.80%]	[2,900, 39,800]
AIAN	[0.48%, 6.46%]	[800, 10,900]
Latinx	[0.49%, 6.34%]	[25,600, 330,650]
Biracial, multiracial, or other race/ethnicity	[0.41%, 5.47%]	[4,000, 53,850]
Total	[0.58%, 3.92%]	[122,000, 823,200]

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

Table A4. 95% Credible Intervals for regional and state-level estimates of those who identify as transgender in the U.S. population by age group

	13-17		18-24		25-64		65+		ALL ADULTS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
United States	[0.61%, 4.02%]	[128,834, 843,773]	[0.43%, 2.43%]	[130,902, 736,873]	[0.23%, 0.74%]	[399,265, 1,260,344]	[0.12%, 0.57%]	[64,824, 310,718]	[0.32%, 0.77%]	[816,644, 1,964,330]
WEST	[0.51%, 5.48%]	[25,784, 277,035]	[0.35%, 2.16%]	[25,647, 156,784]	[0.18%, 0.92%]	[73,888, 377,554]	[0.04%, 0.63%]	[4,962, 76,784]	[0.27%, 0.76%]	[162,515, 461,338]
Alaska	[0.33%, 4.44%]	[143, 1,930]	[0.00%, 3.50%]	[0, 2,345]	[0.21%, 1.09%]	[837, 4,272]	[0.03%, 0.66%]	[26, 616]	[0.31%, 1.10%]	[1,715, 6,085]
Arizona	[0.43%, 5.63%]	[2,040, 26,881]	[0.00%, 4.14%]	[0, 28,838]	[0.14%, 1.28%]	[5,047, 46,633]	[0.03%, 0.44%]	[398, 5,734]	[0.30%, 1.20%]	[16,921, 67,683]
California	[0.54%, 7.01%]	[13,828, 178,759]	[0.14%, 1.25%]	[5,169, 46,288]	[0.12%, 0.89%]	[24,372, 187,926]	[0.00%, 0.70%]	[0, 40,614]	[0.21%, 0.77%]	[64,328, 235,869]
Colorado	[0.68%, 1.60%]	[2,484, 5,849]	[1.08%, 3.09%]	[5,686, 16,305]	[0.35%, 0.68%]	[10,898, 21,338]	[0.00%, 0.11%]	[0, 950]	[0.43%, 0.76%]	[19,372, 34,239]
Hawaii	[1.66%, 2.63%]	[1,330, 2,104]	[0.77%, 2.22%]	[905, 2,604]	[0.51%, 0.81%]	[3,698, 5,928]	[0.26%, 0.62%]	[707, 1,668]	[0.56%, 0.83%]	[6,249, 9,262]
Idaho	[0.20%, 2.85%]	[261, 3,737]	[0.22%, 1.62%]	[362, 2,632]	[0.25%, 0.77%]	[2,249, 6,823]	[0.09%, 0.62%]	[262, 1,797]	[0.33%, 0.72%]	[4,414, 9,631]
Montana	[0.21%, 3.00%]	[137, 1,997]	[0.08%, 1.32%]	[76, 1,334]	[0.31%, 0.64%]	[1,652, 3,378]	[0.04%, 0.22%]	[87, 464]	[0.29%, 0.54%]	[2,440, 4,543]
Nevada	[0.93%, 2.40%]	[1,844, 4,746]	[0.00%, 1.96%]	[0, 4,932]	[0.16%, 0.53%]	[2,642, 8,772]	[0.00%, 0.09%]	[0, 466]	[0.16%, 0.52%]	[3,823, 12,425]
New Mexico	[0.71%, 9.49%]	[989, 13,308]	[0.00%, 1.74%]	[0, 3,460]	[0.16%, 1.08%]	[1,628, 11,274]	[0.00%, 1.46%]	[0, 5,537]	[0.31%, 1.03%]	[5,032, 16,718]
Oregon	[0.31%, 4.21%]	[778, 10,451]	[0.40%, 5.77%]	[1,457, 21,059]	[0.13%, 2.07%]	[2,897, 45,955]	[0.09%, 1.44%]	[671, 11,073]	[0.15%, 2.33%]	[50, 781]
Utah	[0.22%, 3.02%]	[568, 7,700]	[0.71%, 1.98%]	[2,563, 7,142]	[0.31%, 0.63%]	[4,848, 9,763]	[0.25%, 0.62%]	[899, 2,270]	[0.45%, 0.75%]	[10,244, 17,073]
Washington	[0.29%, 4.06%]	[1,325, 18,761]	[1.41%, 2.62%]	[9,262, 17,293]	[0.31%, 0.51%]	[12,818, 20,840]	[0.15%, 0.37%]	[1,841, 4,471]	[0.46%, 0.65%]	[27,386, 38,698]
Wyoming	[0.15%, 2.13%]	[56, 814]	[0.30%, 4.58%]	[167, 2,553]	[0.10%, 1.61%]	[302, 4,652]	[0.07%, 1.13%]	[71, 1,124]	[0.12%, 1.88%]	[540, 8,330]
MIDWEST	[0.49%, 3.67%]	[21,739, 161,975]	[0.42%, 2.32%]	[26,559, 148,216]	[0.19%, 0.54%]	[67,789, 188,624]	[0.11%, 0.45%]	[12,382, 52,130]	[0.27%, 0.65%]	[144,115, 344,082]
Illinois	[0.46%, 5.85%]	[3,836, 48,306]	[0.42%, 3.46%]	[4,811, 39,925]	[0.11%, 0.38%]	[7,446, 25,144]	[0.07%, 0.40%]	[1,407, 8,217]	[0.24%, 0.64%]	[23,656, 63,082]
Indiana	[0.24%, 3.42%]	[1,097, 15,534]	[0.44%, 1.92%]	[2,946, 12,738]	[0.28%, 0.61%]	[9,528, 20,945]	[0.12%, 0.43%]	[1,270, 4,662]	[0.35%, 0.65%]	[18,068, 33,554]
Iowa	[0.29%, 3.91%]	[586, 7,805]	[0.15%, 0.75%]	[468, 2,364]	[0.19%, 0.38%]	[2,947, 5,947]	[0.11%, 0.35%]	[584, 1,913]	[0.21%, 0.37%]	[5,112, 9,006]
Kansas	[0.28%, 3.90%]	[559, 7,841]	[1.15%, 2.70%]	[3,395, 8,011]	[0.24%, 0.46%]	[3,453, 6,577]	[0.21%, 0.47%]	[993, 2,234]	[0.42%, 0.68%]	[9,294, 15,048]
Michigan	[1.02%, 1.79%]	[6,432, 11,316]	[0.00%, 2.27%]	[33, 21,458]	[0.11%, 0.65%]	[5,797, 33,300]	[0.00%, 0.32%]	[0, 5,577]	[0.19%, 0.64%]	[14,909, 50,221]

	13-17		18-24		25-64		65+		ALL ADULTS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Minnesota	[0.25%, 3.32%]	[934, 12,413]	[1.16%, 2.08%]	[5,675, 10,182]	[0.42%, 0.62%]	[12,268, 18,075]	[0.22%, 0.42%]	[2,028, 3,831]	[0.52%, 0.69%]	[22,541, 29,910]
Missouri	[0.20%, 2.70%]	[778, 10,548]	[0.00%, 2.08%]	[0, 11,667]	[0.00%, 0.16%]	[0, 5,189]	[0.05%, 0.62%]	[480, 6,555]	[0.02%, 0.39%]	[954, 18,595]
Nebraska	[0.25%, 3.47%]	[324, 4,561]	[0.30%, 4.35%]	[561, 8,234]	[0.09%, 1.52%]	[909, 14,575]	[0.07%, 1.13%]	[224, 3,537]	[0.12%, 1.80%]	[1,694, 26,346]
North Dakota	[0.30%, 4.32%]	[127, 1,842]	[0.25%, 3.93%]	[204, 3,144]	[0.09%, 1.43%]	[347, 5,489]	[0.06%, 1.02%]	[76, 1,229]	[0.11%, 1.69%]	[627, 9,862]
Ohio	[0.30%, 4.31%]	[2,242, 31,883]	[0.62%, 1.66%]	[6,661, 17,749]	[0.33%, 0.57%]	[19,847, 34,509]	[0.22%, 0.48%]	[4,536, 9,844]	[0.40%, 0.61%]	[36,471, 55,618]
South Dakota	[0.24%, 3.21%]	[141, 1,875]	[0.29%, 4.35%]	[238, 3,590]	[0.09%, 1.51%]	[409, 6,536]	[0.07%, 1.12%]	[110, 1,734]	[0.11%, 1.77%]	[757, 11,860]
Wisconsin	[1.29%, 2.21%]	[4,683, 8,050]	[0.29%, 1.68%]	[1,568, 9,155]	[0.16%, 0.41%]	[4,838, 12,337]	[0.07%, 0.27%]	[675, 2,797]	[0.22%, 0.46%]	[10,033, 20,979]
SOUTH	[0.53%, 3.68%]	[42,806, 299,986]	[0.45%, 2.50%]	[51,865, 290,313]	[0.27%, 0.73%]	[176,871, 475,755]	[0.16%, 0.62%]	[33,661, 128,183]	[0.35%, 0.82%]	[343,999, 793,395]
Alabama	[0.30%, 3.99%]	[956, 12,593]	[0.31%, 4.55%]	[1,391, 20,700]	[0.10%, 1.66%]	[2,619, 41,531]	[0.08%, 1.20%]	[657, 10,233]	[0.12%, 1.90%]	[4,667, 72,464]
Arkansas	[0.24%, 3.37%]	[471, 6,712]	[0.00%, 7.89%]	[0, 22,365]	[0.03%, 0.45%]	[392, 6,878]	[0.12%, 1.04%]	[618, 5,458]	[0.17%, 1.20%]	[3,943, 27,831]
Delaware	[0.51%, 1.40%]	[305, 843]	[0.95%, 3.76%]	[796, 3,155]	[0.42%, 0.97%]	[2,077, 4,827]	[0.18%, 0.79%]	[335, 1,501]	[0.58%, 1.10%]	[4,465, 8,468]
District of Columbia	[0.46%, 9.29%]	[130, 2,603]	[0.54%, 8.51%]	[392, 6,156]	[0.18%, 3.14%]	[773, 13,125]	[0.14%, 2.20%]	[121, 1,927]	[0.22%, 3.67%]	[1,286, 21,207]
Florida	[0.97%, 1.67%]	[11,898, 20,515]	[0.33%, 2.23%]	[5,791, 39,269]	[0.32%, 0.67%]	[34,691, 73,562]	[0.25%, 0.58%]	[11,041, 26,257]	[0.40%, 0.70%]	[68,989, 120,730]
Georgia	[0.32%, 4.54%]	[2,307, 32,790]	[0.38%, 2.10%]	[3,869, 21,625]	[0.30%, 0.67%]	[16,445, 37,242]	[0.32%, 0.89%]	[4,878, 13,621]	[0.43%, 0.77%]	[34,896, 62,489]
Kentucky	[0.18%, 2.68%]	[517, 7,813]	[0.31%, 4.83%]	[1,300, 20,252]	[0.11%, 1.72%]	[2,505, 39,533]	[0.09%, 1.32%]	[653, 9,997]	[0.13%, 2.01%]	[4,457, 69,781]
Louisiana	[0.35%, 4.77%]	[1,062, 14,546]	[0.13%, 1.44%]	[550, 6,102]	[0.27%, 0.64%]	[6,464, 15,288]	[0.08%, 0.37%]	[569, 2,776]	[0.29%, 0.59%]	[10,334, 21,025]
Maryland	[1.95%, 2.22%]	[7,507, 8,542]	[0.91%, 2.89%]	[4,803, 15,160]	[0.26%, 0.50%]	[8,264, 16,046]	[0.10%, 0.26%]	[948, 2,506]	[0.37%, 0.65%]	[17,444, 30,644]
Mississippi	[0.31%, 4.52%]	[627, 9,213]	[0.16%, 1.47%]	[463, 4,385]	[0.16%, 0.57%]	[2,411, 8,575]	[0.10%, 0.56%]	[474, 2,746]	[0.25%, 0.58%]	[5,695, 13,211]
North Carolina	[0.36%, 4.69%]	[2,413, 31,369]	[1.42%, 3.50%]	[14,413, 35,472]	[0.52%, 0.95%]	[28,416, 51,386]	[0.31%, 0.75%]	[5,355, 13,123]	[0.68%, 1.05%]	[55,724, 86,044]
Oklahoma	[0.27%, 3.63%]	[691, 9,438]	[1.36%, 3.68%]	[5,236, 14,186]	[0.30%, 0.58%]	[6,038, 11,532]	[0.06%, 0.32%]	[381, 1,999]	[0.46%, 0.80%]	[13,830, 24,053]
South Carolina	[0.30%, 4.28%]	[975, 13,788]	[0.25%, 1.50%]	[1,186, 7,093]	[0.23%, 0.63%]	[6,084, 16,683]	[0.23%, 0.53%]	[2,186, 4,932]	[0.32%, 0.62%]	[12,923, 25,038]
Tennessee	[0.19%, 2.79%]	[822, 11,816]	[0.07%, 3.84%]	[410, 24,084]	[0.18%, 0.70%]	[6,535, 25,020]	[0.00%, 0.18%]	[0, 2,086]	[0.25%, 0.78%]	[13,296, 41,484]

	13-17		18-24		25-64		65+		ALL ADULTS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Texas	[0.37%, 5.07%]	[7,732, 106,687]	[0.27%, 1.15%]	[7,577, 32,579]	[0.26%, 0.57%]	[38,793, 85,989]	[0.08%, 0.55%]	[3,139, 20,418]	[0.30%, 0.56%]	[64,803, 120,966]
Virginia	[0.80%, 1.55%]	[4,225, 8,149]	[0.40%, 1.82%]	[3,198, 14,624]	[0.28%, 0.53%]	[12,515, 23,842]	[0.15%, 0.54%]	[2,009, 7,290]	[0.35%, 0.60%]	[23,377, 40,074]
West Virginia	[0.16%, 2.47%]	[168, 2,569]	[0.32%, 2.05%]	[489, 3,107]	[0.20%, 0.51%]	[1,851, 4,696]	[0.08%, 0.36%]	[299, 1,316]	[0.27%, 0.55%]	[3,870, 7,884]
NORTHEAST	[1.14%, 3.10%]	[38,504, 104,777]	[0.53%, 2.78%]	[26,831, 141,561]	[0.27%, 0.74%]	[80,717, 218,410]	[0.14%, 0.55%]	[13,818, 53,622]	[0.37%, 0.82%]	[166,015, 365,516]
Connecticut	[0.44%, 5.87%]	[980, 13,222]	[0.54%, 2.15%]	[1,882, 7,435]	[0.31%, 0.59%]	[5,789, 10,968]	[0.20%, 0.55%]	[1,267, 3,475]	[0.40%, 0.68%]	[11,351, 19,297]
Maine	[1.39%, 1.80%]	[1,021, 1,322]	[0.36%, 5.00%]	[386, 5,407]	[0.12%, 1.87%]	[849, 13,159]	[0.09%, 1.28%]	[254, 3,679]	[0.14%, 2.03%]	[1,489, 22,246]
Massachusetts	[0.38%, 5.36%]	[1,571, 21,958]	[0.69%, 3.90%]	[4,792, 26,922]	[0.20%, 0.68%]	[7,444, 24,975]	[0.12%, 0.81%]	[1,411, 9,457]	[0.41%, 0.93%]	[22,723, 51,543]
New Hampshire	[0.22%, 3.01%]	[177, 2,414]	[0.36%, 5.78%]	[443, 7,157]	[0.12%, 1.90%]	[877, 13,793]	[0.09%, 1.38%]	[225, 3,478]	[0.14%, 2.21%]	[1,545, 24,427]
New Jersey	[0.19%, 1.15%]	[1,056, 6,521]	[0.31%, 3.03%]	[2,356, 22,910]	[0.22%, 0.83%]	[10,185, 39,143]	[0.16%, 0.59%]	[2,433, 8,681]	[0.36%, 0.88%]	[25,018, 61,156]
New York	[2.28%, 3.72%]	[26,448, 43,209]	[0.79%, 1.96%]	[13,832, 34,452]	[0.37%, 0.55%]	[37,926, 57,554]	[0.19%, 0.43%]	[6,302, 14,018]	[0.43%, 0.62%]	[66,374, 95,703]
Pennsylvania	[0.78%, 1.82%]	[5,987, 14,014]	[0.16%, 2.84%]	[1,818, 32,295]	[0.22%, 0.79%]	[14,634, 52,649]	[0.07%, 0.40%]	[1,617, 9,626]	[0.31%, 0.79%]	[31,543, 80,383]
Rhode Island	[1.32%, 2.54%]	[828, 1,593]	[0.95%, 3.28%]	[1,043, 3,613]	[0.35%, 0.73%]	[1,977, 4,096]	[0.07%, 0.35%]	[139, 647]	[0.47%, 0.85%]	[4,029, 7,286]
Vermont	[1.21%, 1.45%]	[435, 524]	[0.43%, 2.10%]	[279, 1,371]	[0.32%, 0.65%]	[1,036, 2,073]	[0.14%, 0.45%]	[169, 560]	[0.38%, 0.68%]	[1,942, 3,475]

Table A5. 95% Credible Intervals for regional and state-level estimates of adults who identify as transgender in the U.S. by race/ethnicity

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
United States	[0.28%, 0.72%]	[450,300, 1,151,079]	[0.36%, 0.84%]	[110,698, 258,977]	[0.31%, 0.74%]	[47,451, 113,294]	[0.41%, 1.00%]	[172,709, 420,079]	[0.58%, 1.42%]	[40,459, 98,207]
WEST	[0.24%, 0.76%]	[77,004, 243,246]	[0.25%, 0.81%]	[6,967, 22,361]	[0.25%, 0.74%]	[17,511, 51,508]	[0.33%, 1.12%]	[53,629, 184,482]	[0.49%, 1.45%]	[12,378, 37,047]
Alaska	[0.12%, 1.92%]	[855, 3,045]	[0.17%, 2.68%]	[57, 202]	[0.17%, 2.59%]	[144, 501]	[0.19%, 2.90%]	[133, 459]	[0.49%, 1.76%]	[526, 1,878]
Arizona	[0.13%, 2.03%]	[7,583, 31,021]	[0.17%, 2.54%]	[708, 2,866]	[0.16%, 2.40%]	[555, 2,252]	[0.24%, 3.49%]	[6,590, 25,602]	[0.47%, 1.89%]	[1,485, 5,942]
California	[0.10%, 1.58%]	[19,339, 69,353]	[0.13%, 2.03%]	[3,503, 12,883]	[0.12%, 1.85%]	[9,258, 32,861]	[0.17%, 2.76%]	[29,094, 109,835]	[0.33%, 1.15%]	[3,135, 10,936]
Colorado	[0.13%, 2.02%]	[11,741, 20,909]	[0.15%, 2.45%]	[744, 1,376]	[0.16%, 2.36%]	[691, 1,201]	[0.22%, 3.28%]	[5,262, 9,172]	[0.76%, 1.28%]	[934, 1,581]
Hawaii	[0.13%, 1.97%]	[1,152, 1,675]	[0.15%, 2.34%]	[104, 155]	[0.15%, 2.34%]	[2,815, 4,269]	[0.20%, 3.09%]	[654, 946]	[0.86%, 1.25%]	[1,524, 2,216]
Idaho	[0.11%, 1.76%]	[3,357, 7,392]	[0.16%, 2.47%]	[29, 63]	[0.12%, 1.94%]	[60, 137]	[0.19%, 2.82%]	[746, 1,555]	[0.53%, 1.16%]	[223, 484]
Montana	[0.09%, 1.50%]	[1,968, 3,707]	[0.15%, 2.12%]	[16, 28]	[0.10%, 1.50%]	[19, 35]	[0.17%, 2.43%]	[131, 225]	[0.49%, 0.88%]	[305, 548]
Nevada	[0.10%, 1.52%]	[1,547, 5,032]	[0.13%, 1.93%]	[352, 1,111]	[0.11%, 1.74%]	[329, 1,052]	[0.17%, 2.71%]	[1,352, 4,451]	[0.26%, 0.82%]	[243, 778]
New Mexico	[0.12%, 1.83%]	[1,483, 5,024]	[0.15%, 2.45%]	[97, 338]	[0.14%, 2.18%]	[80, 271]	[0.19%, 2.83%]	[2,671, 8,773]	[0.45%, 1.48%]	[701, 2,313]
Oregon	[0.13%, 2.06%]	[3,463, 53,887]	[0.16%, 2.53%]	[93, 1,454]	[0.16%, 2.51%]	[276, 4,275]	[0.22%, 3.47%]	[836, 12,993]	[0.25%, 3.91%]	[357, 5,477]
Utah	[0.13%, 2.07%]	[7,306, 12,214]	[0.17%, 2.47%]	[114, 181]	[0.17%, 2.58%]	[412, 677]	[0.21%, 3.15%]	[1,855, 3,035]	[0.78%, 1.36%]	[556, 966]
Washington	[0.12%, 1.87%]	[16,788, 23,459]	[0.15%, 2.36%]	[1,144, 1,604]	[0.15%, 2.18%]	[2,868, 3,884]	[0.20%, 3.33%]	[4,228, 6,304]	[0.81%, 1.18%]	[2,358, 3,447]
Wyoming	[0.11%, 1.71%]	[422, 6,526]	[0.15%, 2.32%]	[6, 100]	[0.15%, 2.36%]	[6, 92]	[0.19%, 2.87%]	[76, 1,132]	[0.22%, 3.36%]	[31, 480]
MIDWEST	[0.25%, 0.60%]	[103,416, 245,223]	[0.29%, 0.68%]	[15,082, 35,880]	[0.30%, 0.70%]	[5,418, 12,613]	[0.38%, 0.95%]	[13,844, 34,444]	[0.54%, 1.35%]	[6,356, 15,921]
Illinois	[0.10%, 1.60%]	[13,094, 35,165]	[0.12%, 1.95%]	[3,432, 9,223]	[0.11%, 1.70%]	[1,283, 3,432]	[0.16%, 2.51%]	[5,044, 13,364]	[0.49%, 1.16%]	[802, 1,898]
Indiana	[0.12%, 1.75%]	[13,594, 25,148]	[0.13%, 2.11%]	[1,727, 3,333]	[0.15%, 2.27%]	[541, 1,007]	[0.18%, 2.65%]	[1,547, 2,778]	[0.70%, 1.37%]	[658, 1,288]
Iowa	[0.08%, 1.20%]	[4,140, 7,333]	[0.11%, 1.59%]	[235, 398]	[0.10%, 1.56%]	[154, 271]	[0.14%, 2.10%]	[430, 742]	[0.42%, 0.71%]	[152, 261]
Kansas	[0.12%, 1.83%]	[6,458, 10,452]	[0.15%, 2.33%]	[559, 944]	[0.15%, 2.40%]	[300, 510]	[0.21%, 3.07%]	[1,447, 2,269]	[0.77%, 1.26%]	[530, 873]

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Michigan	[0.10%, 1.58%]	[10,596, 35,680]	[0.12%, 1.89%]	[2,129, 7,240]	[0.12%, 1.82%]	[528, 1,765]	[0.16%, 2.50%]	[960, 3,234]	[0.36%, 1.19%]	[697, 2,302]
Minnesota	[0.14%, 2.10%]	[16,873, 22,434]	[0.18%, 2.73%]	[1,510, 1,961]	[0.18%, 2.76%]	[1,281, 1,734]	[0.23%, 3.46%]	[1,510, 2,009]	[1.08%, 1.40%]	[1,368, 1,772]
Missouri	[0.08%, 1.40%]	[723, 14,324]	[0.10%, 1.59%]	[121, 2,219]	[0.10%, 1.57%]	[24, 449]	[0.13%, 2.06%]	[49, 930]	[0.04%, 0.70%]	[36, 674]
Nebraska	[0.10%, 1.63%]	[1,238, 19,344]	[0.13%, 2.14%]	[88, 1,393]	[0.13%, 2.12%]	[49, 784]	[0.18%, 2.74%]	[246, 3,692]	[0.22%, 3.41%]	[74, 1,134]
North Dakota	[0.10%, 1.54%]	[492, 7,765]	[0.12%, 1.92%]	[18, 291]	[0.15%, 2.27%]	[17, 257]	[0.19%, 2.87%]	[39, 596]	[0.17%, 2.73%]	[61, 952]
Ohio	[0.12%, 1.87%]	[27,892, 42,266]	[0.14%, 2.15%]	[4,542, 7,125]	[0.13%, 2.11%]	[859, 1,414]	[0.18%, 2.78%]	[1,689, 2,593]	[0.82%, 1.22%]	[1,488, 2,220]
South Dakota	[0.10%, 1.59%]	[575, 9,025]	[0.13%, 2.00%]	[18, 276]	[0.15%, 2.36%]	[14, 225]	[0.16%, 2.47%]	[34, 522]	[0.20%, 3.14%]	[115, 1,812]
Wisconsin	[0.09%, 1.39%]	[7,739, 16,287]	[0.12%, 1.83%]	[704, 1,475]	[0.12%, 1.90%]	[367, 764]	[0.14%, 2.15%]	[850, 1,717]	[0.42%, 0.83%]	[374, 736]
SOUTH	[0.30%, 0.76%]	[174,367, 433,893]	[0.38%, 0.90%]	[68,709, 161,966]	[0.35%, 0.72%]	[12,221, 25,405]	[0.46%, 0.88%]	[73,399, 140,419]	[0.67%, 1.40%]	[15,303, 31,712]
Alabama	[0.11%, 1.75%]	[2,918, 44,892]	[0.13%, 2.08%]	[1,307, 20,777]	[0.11%, 1.85%]	[60, 970]	[0.18%, 2.77%]	[236, 3,612]	[0.21%, 3.14%]	[145, 2,213]
Arkansas	[0.14%, 2.17%]	[2,728, 19,259]	[0.16%, 2.49%]	[625, 4,448]	[0.18%, 2.73%]	[83, 580]	[0.22%, 3.39%]	[362, 2,534]	[0.28%, 1.95%]	[146, 1,009]
Delaware	[0.17%, 2.54%]	[2,553, 4,789]	[0.20%, 3.16%]	[999, 1,931]	[0.17%, 2.79%]	[162, 318]	[0.29%, 4.64%]	[545, 1,051]	[1.26%, 2.33%]	[205, 379]
District of Columbia	[0.18%, 3.08%]	[426, 7,167]	[0.24%, 3.89%]	[586, 9,573]	[0.23%, 4.23%]	[61, 1,102]	[0.27%, 4.35%]	[157, 2,516]	[0.35%, 5.32%]	[55, 850]
Florida	[0.12%, 1.87%]	[32,116, 58,022]	[0.15%, 2.39%]	[10,771, 19,025]	[0.14%, 2.18%]	[1,978, 3,461]	[0.18%, 2.60%]	[21,699, 36,102]	[0.73%, 1.24%]	[2,424, 4,121]
Georgia	[0.13%, 2.05%]	[16,907, 30,596]	[0.15%, 2.33%]	[11,308, 19,835]	[0.15%, 2.23%]	[1,474, 2,590]	[0.21%, 3.27%]	[4,031, 7,398]	[0.78%, 1.37%]	[1,175, 2,069]
Kentucky	[0.12%, 1.92%]	[3,654, 57,354]	[0.14%, 2.19%]	[387, 6,048]	[0.13%, 2.05%]	[72, 1,124]	[0.19%, 2.92%]	[199, 3,055]	[0.28%, 4.24%]	[146, 2,200]
Louisiana	[0.11%, 1.67%]	[5,647, 11,468]	[0.13%, 2.06%]	[3,538, 7,257]	[0.13%, 1.93%]	[189, 375]	[0.15%, 2.36%]	[635, 1,280]	[0.48%, 0.95%]	[325, 646]
Maryland	[0.11%, 1.78%]	[8,104, 14,063]	[0.13%, 2.11%]	[5,198, 9,412]	[0.12%, 1.91%]	[1,079, 1,893]	[0.19%, 2.91%]	[2,298, 3,977]	[0.64%, 1.08%]	[764, 1,298]
Mississippi	[0.10%, 1.53%]	[3,002, 7,046]	[0.12%, 1.81%]	[2,273, 5,204]	[0.11%, 1.74%]	[54, 131]	[0.16%, 2.53%]	[222, 511]	[0.47%, 1.04%]	[144, 319]
North Carolina	[0.18%, 2.71%]	[32,262, 49,657]	[0.22%, 3.41%]	[12,387, 19,794]	[0.20%, 3.08%]	[1,645, 2,554]	[0.30%, 4.41%]	[6,406, 9,643]	[1.27%, 1.84%]	[3,024, 4,397]
Oklahoma	[0.13%, 2.09%]	[7,960, 14,042]	[0.16%, 2.36%]	[961, 1,623]	[0.17%, 2.55%]	[343, 584]	[0.22%, 3.48%]	[1,749, 3,065]	[0.72%, 1.21%]	[2,818, 4,739]
South Carolina	[0.11%, 1.64%]	[7,647, 14,681]	[0.13%, 2.10%]	[3,701, 7,334]	[0.12%, 1.86%]	[229, 442]	[0.18%, 2.70%]	[916, 1,759]	[0.63%, 1.21%]	[430, 823]

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Tennessee	[0.12%, 1.90%]	[9,335, 29,154]	[0.14%, 2.29%]	[2,312, 7,483]	[0.13%, 2.15%]	[257, 817]	[0.21%, 3.07%]	[952, 2,757]	[0.48%, 1.39%]	[440, 1,274]
Texas	[0.09%, 1.40%]	[22,375, 41,846]	[0.11%, 1.73%]	[7,461, 13,921]	[0.10%, 1.61%]	[2,997, 5,679]	[0.15%, 2.30%]	[30,120, 56,217]	[0.48%, 0.85%]	[1,850, 3,304]
Virginia	[0.11%, 1.66%]	[13,200, 22,700]	[0.13%, 1.95%]	[4,747, 7,973]	[0.11%, 1.85%]	[1,506, 2,721]	[0.17%, 2.62%]	[2,811, 4,811]	[0.69%, 1.15%]	[1,113, 1,869]
West Virginia	[0.10%, 1.58%]	[3,532, 7,157]	[0.10%, 1.75%]	[148, 328]	[0.10%, 1.60%]	[30, 66]	[0.14%, 2.25%]	[62, 132]	[0.52%, 1.07%]	[99, 202]
NORTHEAST	[0.32%, 0.77%]	[95,512, 228,717]	[0.41%, 0.80%]	[19,939, 38,770]	[0.41%, 0.79%]	[12,302, 23,768]	[0.54%, 1.03%]	[31,838, 60,733]	[0.69%, 1.44%]	[6,423, 13,528]
Connecticut	[0.12%, 1.84%]	[6,772, 11,623]	[0.15%, 2.35%]	[1,234, 2,130]	[0.14%, 2.14%]	[546, 909]	[0.19%, 2.93%]	[2,380, 3,936]	[0.72%, 1.21%]	[419, 700]
Maine	[0.13%, 1.95%]	[1,350, 20,093]	[0.16%, 2.39%]	[19, 295]	[0.18%, 2.88%]	[25, 399]	[0.20%, 3.13%]	[34, 526]	[0.25%, 3.89%]	[60, 933]
Massachusetts	[0.15%, 2.32%]	[14,764, 33,486]	[0.18%, 2.86%]	[1,697, 3,818]	[0.18%, 2.80%]	[1,696, 3,831]	[0.24%, 3.79%]	[3,514, 8,027]	[0.72%, 1.64%]	[1,052, 2,382]
New Hampshire	[0.13%, 2.13%]	[1,344, 21,355]	[0.16%, 2.52%]	[22, 342]	[0.15%, 2.28%]	[45, 683]	[0.22%, 3.36%]	[83, 1,251]	[0.30%, 4.48%]	[53, 796]
New Jersey	[0.12%, 1.90%]	[12,037, 29,622]	[0.15%, 2.41%]	[3,455, 8,423]	[0.13%, 2.11%]	[2,255, 5,651]	[0.19%, 2.98%]	[6,451, 15,533]	[0.65%, 1.53%]	[819, 1,927]
New York	[0.11%, 1.79%]	[32,028, 46,924]	[0.14%, 2.16%]	[9,675, 13,955]	[0.14%, 2.17%]	[6,346, 8,788]	[0.18%, 2.73%]	[15,592, 22,256]	[0.75%, 1.04%]	[2,733, 3,780]
Pennsylvania	[0.13%, 1.95%]	[22,840, 57,720]	[0.15%, 2.41%]	[3,566, 9,310]	[0.14%, 2.31%]	[1,191, 3,135]	[0.20%, 3.13%]	[2,948, 7,707]	[0.59%, 1.50%]	[998, 2,511]
Rhode Island	[0.14%, 2.19%]	[2,641, 4,781]	[0.18%, 2.76%]	[245, 449]	[0.18%, 2.90%]	[163, 311]	[0.22%, 3.36%]	[773, 1,385]	[0.83%, 1.45%]	[206, 359]
Vermont	[0.13%, 2.05%]	[1,735, 3,114]	[0.16%, 2.69%]	[26, 48]	[0.14%, 2.20%]	[34, 60]	[0.22%, 3.58%]	[63, 113]	[0.77%, 1.29%]	[84, 141]

Note: White, Black, and Asian are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. All other race/ethnicity groups are non-Hispanic.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION

SUSAN NEESE, M.D., ET AL.,

Plaintiffs,

v. Case No.

XAVIER BECERRA, ET AL., 2:21-cv-163-Z

Defendants.

VIDEOTAPED DEPOSITION OF

SUSAN NEESE

DATE: Friday, July 22, 2022

TIME: 9:05 a.m.

LOCATION: Remote, via Zoom

REPORTED BY: Josh Divers, Videographer

Merienne Gasca, Notary Public

JOB No.: 5329209

A P P E A R A N C E S

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I N D E X

E X H I B I T S

(Exhibits attached.)

P R O C E E D I N G S

REPORTER: Good morning. My name is Merienne Gasca; I'm the reporter assigned by the company to take the record of this proceeding. We are now on the record at 9:05 a.m.

This is the deposition of Dr. Susan Neese taken in the matter of Susan Neese MD et al vs. Xavier Becerra et al on July 22, 2022 at Amarillo, Texas 79106. The reporter is located at Leander, Texas.

I am a notary authorized to take acknowledgements and administer oaths in Texas. Parties agree that I will swear in the witness remotely outside of his or her presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same

manner as a deposition recorded by stenographic means; and - shall constitute written stipulation of such.

This proceeding will also be recorded via video technology by Josh Divers.

At this time will everyone in attendance please identify yourself for the record, beginning with Mr. Newman.

MR. NEWMAN: Hi, I'm Jeremy Newman with U.S. Department of Justice.

MS. NEESE: Hi, I'm Dr. Susan Neese.

MR. MITCHELL: Jonathan Mitchell with Mitchell Law, PLLC.

REPORTER: Thank you. Hearing no objection, I would now swear in the witness. Dr. Neese please raise your right hand.

WHEREUPON,

SUSAN NEESE,

called as a witness, and having been first duly sworn to tell the truth, the whole truth and nothing but the truth, was examined and testified as follows:

REPORTER: Please proceed.

MR. NEWMAN: Thank you.

EXAMINATION

BY MR. NEWMAN:

Q Dr. Neese, my name is Jeremy Newman. I'm an attorney with the US Department of Justice. I represent the Defendants in this case, Xavier Becerra, secretary of the US Department of Health and Human Services in the United States of America.

And I may use the acronym HHS to refer to the Department of Health and Human Services during this deposition. All right. Dr. Neese, have you ever been deposed before?

A Yes.

Q About how many times?

A Once.

Q What was the name of the case?

A I don't recall the name of the case. It was probably 20 years ago.

Q What was it about?

A It was an elderly patient in mind that had been taken advantage of by a caregiver that had stolen

all her money.

Q All right. So, I will -- since it's been a while, I'll go through some of the general ground rules of the deposition. Do you understand that you're under oath?

A Yes.

Q Do you understand you have the same obligation to tell the truth as if you were testifying in a courtroom?

A Yes.

Q Okay. I'll be asking you some questions. If you don't understand the question, you can tell me that you don't understand or ask me to clarify the question. Do you understand?

A Yes.

Q But if you answer a question, I'll assume that you understood the question, okay?

A Yes. Okay.

Q And if there are any technical issues with the remote deposition setup like you can't hear me or you can't access the exhibits, please let me know, okay?

A Okay.

Q And if you don't know the answer to a question you can answer that you don't know. And if you don't remember or recall the answer to a question you can answer that you don't remember or you don't recall it, do you understand?

A Yes.

Q And since the Court Reporter is taking down a transcript, we need to provide -- you need to provide clear verbal answers, for example, yes or no, rather than a nod or shrug or uh-huh or uh-uh. Do you understand?

A Yes.

Q And try not to speak too fast or to speak over me. Please allow me to finish my question before you start to answer and in turn, I'll let you complete your answer before I start my next question, okay?

A Okay.

Q And if at any point you wish to correct an earlier answer, you can let me know, okay?

A Okay.

Q Your counsel, Mr. Mitchell might object to

some of my questions. If he objects, you still need to answer the question unless Mr. Mitchell specifically instructs you not to answer the question, do you understand?

A Yes.

Q And if you need to take a break for any reason, just let me know and we'll do so. The only exception is if there's a pending question then I'll ask you to answer the question before we take the break. All right.

MR. NEWMAN: So, I'm going to introduce Exhibit 1 so just give me a second to do that. Okay. I believe that I have introduced Exhibit 1.

(Exhibit 1 was marked for identification.)

BY MR. NEWMAN:

Q Dr. Neese, can you please let me know if you're able to view the exhibit?

A Yes. I can see.

Q Okay. So, I've just introduced Exhibit 1 which is a document titled, first amended complaint class action. And I'll ask you some questions about

this document.

And I'll direct you to specific parts of the document that if you'd like, you can take some time to look at the document before I begin asking some questions.

A Okay.

Q I'll start with some general questions about the document. Do you recognize this document?

A Yes.

Q What is it?

A It's my case. My complaint.

Q Have you read this document before?

A Actually, this is not the same one that I have, I think but let me see -- let me look. Okay. No, I don't recognize this document. This isn't the same one that I had. This -- I thought this was something else.

Q Okay.

A I'm assuming it's the case. Yes. Okay. I can read it real quick. I was thinking of a different one. I'm sorry.

Q So, have you ever read this document before?

A No.

Q Can you turn to page one and in the upper left corner of page one, there are listed three names as Plaintiffs, Susan Neese MD, James Hurley, MD and Jeffrey Barke, MD. Do you see that?

A Yes, sir.

Q Are you the Susan Neese, MD listed on this document?

A Yes.

Q This document says you are one of the Plaintiffs.

A Yes.

Q Do you know what a Plaintiff is?

A Yes.

Q What's your understanding of what a Plaintiff is?

A Someone who has a complaint that brings a lawsuit.

Q Does this document contain the allegations and claims in the lawsuit that you filed?

A Yes.

Q Why did you file this lawsuit?

A Because I want to be able to treat my patients based on standard of care and my ethical beliefs without fear of losing my federal funding or other physicians losing their federal funding for trying to do their best thing for their patients.

Q So, I'm not asking you to -- sorry.

A Go ahead.

Q I'm not asking you disclose the substance of your communications with your counsel, but what did you do to prepare for filing this lawsuit?

A Discussed several patients and issues that I had with several of my patients. I mean, I didn't give them any names of my patients, just what I thought was wrong with the discrimination.

What's the word I'm looking for? With the potential for being accused of being discriminatory against my patients.

Q Did you do anything to make sure that the allegations in this document were accurate?

A I haven't done anything specific.

Q Other than --

A I don't understand what you're asking me.

Q I'm asking whether you took any steps before this document was filed to ensure that the factual allegations made in this document were true.

A I don't remember reading this specific document. I don't recall read in this specific document.

Q Other than your counsel, did you talk to anyone about the lawsuit before filing the lawsuit?

A No.

Q Other than your counsel, have you talked to anyone about the lawsuit since filing the lawsuit?

A No. I told my husband I had to give a deposition today.

Q Okay. So, I'd like to direct your attention to the introductory paragraph on page one under where it says, "First amended complaint class action." The paragraph that begins with section 1557.

That paragraph reads, "Section 1557 of the Affordable Care Act prohibits sex discrimination in any health program or activity that receives federal financial assistance. See 42 USC Section 18116.

On May 10, 2021, Secretary Becerra announced

that the Department of Health and Human Services, HHS, will interpret and enforce section 1557 to prohibit, one, discrimination on the basis of sexual orientation, and two, discrimination on the basis of gender identity.

See Exhibit 1, the secretary's interpretation of section 1557 is incompatible with the statutory language and the court should declare it so and then join the secretary from using or enforcing this interpretation of section 1557." Do you see that?

A Yes.

Q What is section 1557 of the Affordable Care Act?

A Well, just what it says, that they wanted -- that you're not able to discriminate based on sex, race, gender identity, et cetera.

Q Have you read section 1557 of the Affordable Care Act?

A Not fully. I think at the very beginning we went over it.

Q What's your understanding of what section

1557 says?

A That you are not able to -- you're not allowed to discriminate based on age, sex, gender, identity, race, religion.

Q In your view, how is Secretary Becerra's interpretation of section 1557 incompatible with the statutory language?

A I don't understand that question.

Q Well, the lawsuit, the paragraph I just read said the secretary's interpretation of section 1557 is incompatible with the statutory language. Do you have an understanding of why you have alleged in this lawsuit that the secretary's interpretation is incompatible with the statutory language?

A Repeat that one more time.

Q Do you have an understanding of why the secretary's interpretation of section 1557 is incompatible with the statutory language as you allege in the lawsuit?

A My issue with it or what my understanding is, is that if I don't treat my transgender patients based on their gender identity versus their biologic

identity, that I could be held or considered discriminating against my patients. That's what my understanding is.

Q What's your understanding of what you're asking the court to do in this lawsuit?

A Is to make sure that if I treat my patients based on their biologic identity for their needs, versus what their gender identity is, that I am not considered and based -- treating my patients based on what is scientifically proven and the best practices that I will not be considered discriminating against my patients.

Q At page one of this document here at the top there's a title first amended complaint class action. Do you see that?

A Yes.

Q What's your understanding of what a class action is?

A Where it's to multiple Plaintiffs to protect the rights of multiple people. I mean, who have the same beliefs, I guess, or the same views or the same issue. I guess that would be the word.

Q Why did you decide to file this lawsuit with a class action?

A Because I think this affects just more than me. I think it's an issue that could be -- it could be for physicians across the country could be held or considered discriminatory if they're treating patients based on their biologic sex.

Q Are you familiar with the Supreme Court decision called Bostock v. Clayton County?

A Just what's in here, but no. No, I'm not.

Q Have you read that Supreme Court decision?

A No.

Q Have you read anything about that Supreme Court decision?

A No.

Q Do you have any understanding about what the Supreme Court ruled in that decision?

A No.

Q Okay. Please turn to page nine of the document. And I am going to ask you about paragraph 38, which is in the middle of the page.

A Yes.

Q Paragraph 38 reads, "Dr. Neese, Dr. Hurley and Dr. Barke seek to represent a class of all health care providers subject to Section 1557 of the Affordable Care Act." Do you see that?

A Yes, sir.

Q What's your understanding of what it means for a Plaintiff to represent a class?

A That you are representing the -- I don't know how to say it. Excuse me. That you are wanting to do the right thing for the majority of people to protect our whole profession.

Q What's your understanding of what your responsibilities would be as a class representative?

A That I just want to clarify our legal rights to take care of our patients without worrying about losing funding because we may be considered discriminatory and -- I don't know how to answer that question.

Q What's your understanding of who is in the class proposed in paragraph 38?

A Healthcare professionals -- all healthcare professionals.

Q All healthcare professionals?
A Yes.
Q Okay.
MR. NEWMAN: I am going to introduce another exhibit so just give me a minute to do that. Okay. I have just introduced Exhibit 2.
(Exhibit 2 was marked for identification.)
BY MR. NEWMAN:
Q Are you able to see it Dr. Neese?
A Not yet, no. Let me refresh. I don't have anything on my end showing up.
Q Okay.
REPORTER: I can see it. Dr. Neese, try refreshing your page again. If you go back to the marked folder exhibit.
THE WITNESS: All right. Okay. There it is. Let me pull it up. Okay.
MR. NEWMAN: Okay.
BY MR. NEWMAN:
Q So, I've just introduced Exhibit 2. This document was filed as an exhibit to the first amended

complaint. It is titled Department of Health and Human Services 42 USC Section 18116(a).

Notification of interpretation and enforcement of section 1557 of the Affordable Care Act and Title Nine of the Education Amendments of 1972. And I may refer to this document as the notification.

Again, take your time if you need to look over the document and then I'll ask you some questions about it. Dr. Neese, have you ever seen this document before?

A No.

Q Have you ever read this document before?

A No.

Q Do you know what this document is?

A No, I mean…

Q Do you have any understanding of what this document has to do with the claims in your lawsuit?

A Is it clarifying section 1557? I…

Q So, you don't have any understanding of what this document has to do with the claims in your lawsuit?

A Well, it says it prohibits discrimination on

the basis of sexual orientation and gender identity --

Q And so --

A -- and enforce it. So, let me read a little bit more?

Q Sure.

A Okay. I've read the rest of it, sorry.

Q Is it -- do you have an understanding of what this document has to do with the claims in your lawsuit?

A No.

Q All right. In your view, does this document contain any incorrect legal interpretations?

A No. But I don't know how to interpret things legally.

Q I'd like to direct your attention to the middle of the first page where it says summary. After summary is the following paragraph, "This notification is to inform the public that consistent with the Supreme Court's decision and Bostock Entitle 9, beginning May 10, 2021.

The Department of Health and Human Services, HHS, will interpret and enforce section 1537's

prohibition on discrimination on the basis of sex to include, one, discrimination on the basis of sexual orientation, and two, discrimination on the basis of gender identity." Do you see that?

A Yes, sir.

Q Okay. And we'll get to gender identity later but I want to start by asking you about sexual orientation. Have you ever engaged in any conduct that you believe would constitute discrimination on the basis of sexual orientation as that phrase is used in this document?

A No.

Q Have you ever engaged in any conduct that you believe secretary Becerra would regard as discrimination on the basis of sexual orientation?

A No.

Q Is there any conduct that you believe you're likely to engage in in the future with respect to a gay, lesbian or bisexual patient that you believe would constitute discrimination on the basis of sexual orientation as that phrase is used in this document?

A No.

Q When HHS stated that and interpreted section 1557 to prohibit discrimination on the basis of sexual orientation, do you believe that harmed you have any way?

A No.

Q If the Judge issues a ruling in this case saying that it is permissible for healthcare providers to discriminate on the basis of sexual orientation, do you believe that would benefit you in any way?

A Repeat that one more time.

Q If the Judge if the judge issues a ruling in this case saying that it's permissible for healthcare providers to discriminate on the basis of sexual orientation, do you believe that would benefit you in any way?

A No.

Q Okay.

MR. NEWMAN: I am going to introduce another exhibit. Okay. I have just introduced Exhibit 3.

(Exhibit 3 was marked for identification.)

BY MR. NEWMAN:

Q Can you please let me know when you're able to view the exhibit documents?

A Yes, I have it.

Q Okay. And this document is titled, Plaintiff Susan Neese's answers to first set of interrogatories. Have you seen this document before?

A Yes.

Q Have you read this document before?

A Yes.

Q What is this document?

A The answers to the questions that I was given.

Q Okay. Please turn to page 12 of the document and let me know when you're there.

A I'm there.

Q Okay. On that page, it says verification. I declare under penalty of perjury that the answers to these interrogatories are true and correct. And then it says DocuSign by Susan Neese. Do you see that?

A Yes.

Q And you're the Susan Neese who

electronically signed that document?

A Yes, sir.

Q So, did you do something on a computer or electronic device to cause that electronic signature to be added on that document?

A Yes.

Q Okay. What is your understanding of what you were representing when you electronically signed this document?

A My answers to my complaint.

Q What did you do to make sure that the answers to the interrogatories in this document were true and correct?

MR. MITCHELL: And Dr. Neese, may I just instruct you not to disclose the contents of conversations you've had with me or my co-counsel when answering the question.

THE WITNESS: Okay. I just answered questions truthfully.

MR. NEWMAN: Okay.

BY MR. NEWMAN:

Q Sitting here right now are you aware of any

statements in these interrogatory answers that were not correct?

A No.

Q Okay. So, please turn back to page one. And I'm going to ask you about your response to interrogatory number one. In that answer you wrote, "I practice general internal medicine for adults." Can you explain to me what is general internal medicine?

A General internal medicine is specialized in adult medicine or teenagers and adults medicine. We treat a broad range. We are diagnosticians essentially and treat chronic medical conditions long term throughout somebody's life. Kind of like a pediatrician before adults.

Q And when you wrote that you practice general internal medicine for adults, what did you mean by adults?

A My age group is 16 and above.

Q Okay. So --

A That's what I have set at my practice in my office.

Q So, you -- do you treat anyone below the age of 16?

A No. Actually I have in the past. Yes, I have in the past. I don't believe I have anybody in my practice that's below the age of 16 right now.

Q If someone -- if a parent of a patient below the age of 16 asked you to treat their child who's below the age of 16, would you treat a patient below the age of 16?

A I don't any longer, no. I refer them to the pediatrician.

MR. MITCHELL: Mr. Newman.

MR. NEWMAN: Yes.

MR. MITCHELL: My internet connection was stuck for the last 5 or 10 seconds so I did not hear the question you asked, Dr. Neese. Could you please repeat it?

MR. NEWMAN: It's something along the lines of if you were -- if a parent asked you to treat a patient below the age of 16, would you treat that patient.

MR. MITCHELL: Did Dr. Neese answer the

question?

THE WITNESS: Yes. I said I no longer accept patients under the age of 16.

MR. MITCHELL: Thank you.

BY MR. NEWMAN:

Q About how many patients do you currently have?

A There's thousands, two or 3000. I have no idea.

Q About how many of your patients are under the age of 18?

A It is a minority. I would say probably two, three percent of my practice.

Q Okay. I like to direct your attention to interrogatory number two and the interrogatory is on page one and the response is on page two. So, you can take a minute to read over that and then I'll ask you some questions about it.

A Okay.

Q Do you have several transgender patients in their 30s and 40s?

A Yes.

Q About how many transgender patients do you have?

A Five.

Q Do you -- strike that. What's the age range of those patients?

A They're all I believe 30 to 40 range.

Q Are there any treatments that you object to providing to those adult transgender patients?

A I don't know how to answer that. It depends on what the issue is.

Q Have any situations come up in which any of those patients have requested any treatment that you've objected to providing?

A No. Not that I can recall it. It all depends on -- go ahead.

Q About four lines down on page two, you wrote, "In one instance, I declined to take on a new patient who is 16 years old whom I had never seen before and his mother, who's a long standing patient of mine, came to me and asked if I would assist her teenage daughter in obtaining transition hormones.

I did not take on this patient because I was

not comfortable taking a teenager transition due to the complexity of the medical and emotional issues that case would present and that is not my area of specialty." Do you see that?

A Yes, sir.

Q Is that the only time that you've been asked to provide gender transition services to a minor?

A No. I've had one other instance.

Q When was that other instance?

A Probably 10 plus years ago I had a patient that was a minor that transitioned over time.

Q Can you describe what happened with that patient?

A I had taken care of this patient for years, and had him into counseling for his gender dysphoria for years who eventually transitioned from female -- male to female over time. I mean, I had a relationship with this patient for 10 years plus.

Q Were -- that previous patient, were there any instances in which that patient requested treatment that you refuse to provide?

A No. I take that back, we did not start

hormone therapy for quite some time. For several years post puberty.

Q Now, I'd like to go back to the person that you're talking about in this interrogatory response. And you wrote at the end of the sentence I just read, that is not my area of specialty. Can you explain what you meant by that?

A When you have a pubertal -- pre pubertal or a patient that's in puberty, for transgender care you have to put them on puberty blockers and then over time you start them on hormone therapy. I have never done puberty blockers and I'm not familiar with that or comfortable in doing that.

And don't -- and I'm quite concerned about the long term ramifications of doing that in young patients. I mean, puberty sometimes starts at 9 years old or sooner for people now.

Q As a general matter, do you provide services to patients that are outside your area of specialty?

A No.

Q Okay.

A You mean…

Q Now, I'd like to direct your attention to interrogatory number five, and that interrogatory begins on page two and the response is on page three. So, please take a minute to read that and then I'll ask you some questions about it.

REPORTER: I think Mr. Mitchell's frozen or has a bad internet connection. I think he's trying to say something.

MR. NEWMAN: Mr. Mitchell, can -- are you able to hear what's going on?

MR. MITCHELL: I just heard you this last time, but I did not hear Dr. Neese's answer to the question you had asked previously.

MR. NEWMAN: Okay. Do you want to keep going or do you want to go off the record for a minute, Mr. Mitchell?

MR. MITCHELL: I'm not sure. I've had two instances now where I've had internet issues, it's been otherwise smooth. Are either of you having any problems?

MR. NEWMAN: I am not.

MR. MITCHELL: So, the problem's

probably on my end. Let me -- could we go off the record briefly and I will see if there is a different spot in the house I should go to?

MR. NEWMAN: Sure. We can go off the record right now.

VIDEOGRAPHER: Going off the record. The time is 9:44.

(Recess)

VIDEOGRPHER: Back on the record. Time is 9:53.

BY MR. NEWMAN:

Q So Dr. Neese, we are discussing Exhibit 3, your interrogatory responses. And I'd like to direct your attention to interrogatory number six. The interrogatory is on page three and your response extends from page three to page five.

So, you can take some time to look at that and then I'll ask you some questions about it.

A Okay.

Q In that response, you described a patient in the late 30s who's a biological female but identifies as male who has refused necessary preventative care

that you strongly recommended.

I don't want any personally identifying details but can you generally describe your interactions with this patient concerning the preventive care that you've recommended?

A Well, I've recommended routine regular pelvic examinations and pap smears per guidelines based on biologic females.

And he has continually refused and made appointments for it and then rescheduled and has not been -- we have not been getting -- giving -- he has not been getting the appropriate preventive care because he continues to refuse and now he's having some health issues that are concerning.

Q Do you believe that your care for this patient has been medically appropriate?

A Yes.

Q Do you believe that you -- strike that. Do you believe that you have discriminated against this patient on the basis of his gender identity?

A No.

Q Do you believe that secretary Becerra would

consider your treatment of this patient to constitute discrimination on the basis of gender identity?

A I don't know the answer to that. I'm concerned about it.

Q Can you explain --

A And when I say my care has been medically appropriate for him, he should be having pap smears and pelvic exams. I can't get him to do that. So that's where it's not medically appropriate.

I mean, I'm having -- I'm struggling with that. Otherwise his care is fine but we're missing a huge part of his preventive care.

Q Can you explain your concern that secretary Becerra might consider your treatment of his patient to constitute discrimination on the basis of gender identity?

A Well, I really should terminate my physician patient relationship with this patient because he refuses to allow routine preventive screenings. But am I going to be considered discriminating against this patient because they believe they are a male versus a biologic female. That's my concern.

Q So, look back at Exhibit 2 which is the notification of interpretation and enforcement of section 1557 of the Affordable Care Act and Title Nine of the Education Amendments of 1972. Do you have Exhibit 2 up?

A I do.

Q Can you point to any language in that document that would make you believe that Secretary Becerra might consider your treatment of this patient to be discriminatory?

A Patient's gender identity is a male and I'm trying to treat him as a biologic female and do the appropriate thing by him.

So, if I'm -- and if I agree to refuse to treat him based on his gender identity because I'm not allowed to treat him based on his biologic, that's where I think he -- that's where I think it looks like I could be discriminating against my patient.

Q Can you point to any language in this document that makes you believe that Secretary Becerra might consider your treatment of this patient to be discriminatory?

A Just it says discrimination based on gender identity.

Q Are you aware of any other statements from Secretary Becerra or the Department of Health and Human Services that makes you concern that Secretary Becerra or HHS would consider your treatment of this patient to be discriminatory?

A No.

Q So, we've discussed two situations in which you have expressed some concern that Secretary Becerra might conclude that your behavior would constitute discrimination. The first involved overseeing the gender transition of a minor.

And the second involves recommending preventive care in accordance with the transgender patient's biological sex.

Are there any other situations in which you're concerned that you might engage in conduct that Secretary Becerra would consider to be discrimination on the basis of gender identity?

A I'm sure there could be several. I can't come up with any right now.

Q In your view, what does it mean to discriminate against a patient on the basis of gender identity?

A That you do not go along with their belief that they are fully female or fully male. And that if you don't do what they want as their gender identity sex versus what needs to be done based on their biologic sex, am I being discriminatory?

Am I discriminating because they believe that they are this sex when biologically they're this sex and I'm treating them based biologically on that sex. Trying to do no harm.

Q So, do you believe that in that situation, Secretary Becerra would deem it to be discrimination on the basis of gender identity to treat the patient as you described in line with their biological sex?

A I don't know. I think that needs to be elucidated. It's not specific enough.

Q Do all doctors in this country agree about when it is appropriate to provide gender transition services to transgender individuals?

A No. There's no set standard.

Q Is -- do doctors and does -- strike that. Do some doctors disagree about when it's appropriate to provide gender transition services to transgender individuals?

A Yes, I believe so.

Q Is it fair to say that there are a wide range of different views among doctors in this country about when it is appropriate to provide gender transition services to transgender individuals?

A Yes, I believe so.

Q Do all doctors in this country agree about what it means to discriminate against a patient on the basis of gender identity?

A I can't answer that. I don't know the answer to that.

Q Do --

A I think it's confusing.

Q Do all doctors in this country agree about whether it should be legal to discriminate against patients on the basis of gender identity?

A I don't know the answer to that. What all doctors believe from that standpoint.

Q Do you believe that some doctors believe that it should be illegal to discriminate against patients on the basis of gender identity?

A Yes.

Q Do all doctors in this country have the same views about the notification Exhibit 2 that we've just looked at?

A I just missed part of that. The -- have views, what?

Q I said do -- have -- do all doctors in this country have the same views about the notification Exhibit 2 that we were previously discussing.

MR. MITCHELL: Mr. Newman, I'm going to object to the form of the question. Calls for speculation.

BY MR. NEWMAN:

Q Do you have any understanding about whether all doctors in this country have the same views about that notification?

A I don't know what all doctors believe.

Q Take a look back at Exhibit 1, which is the first amended complaint. And in particular, I'd like

to direct your attention to page 10 and paragraph 48 on page 10.

A Okay.

Q That paragraph reads, "The court should therefore declare that Section 1557 does not prohibit discrimination on account of sexual orientation and gender identity as Secretary Becerra claims.

But that it prohibits only sex discrimination, which means that the provider would have acted differently toward an identically situated member of the opposite biological sex." Do you see that?

A I do.

Q Do you believe that all doctors in this country would want the court to issue a declaration that Section 1557 does not prohibit discrimination on account of sexual orientation and gender identity?

A Do I believe that all doctors?

Q Yes.

A I think -- say it one more time. I'm sorry.

Q Do you believe that all doctors in this country would want the court in this case to declare

that Section 1557 does not prohibit discrimination on account of sexual orientation gender identity?

A Does not prohibit discrimination on account of sexual orientation and gender identity? Is that what you --

Q Let me --

A I don't understand what your question is.

Q Okay. So, let me rephrase that in different way. You are asking in -- paragraph 48 asked the court to declare that Section 1557 does not prohibit discrimination on account of sexual orientation and gender identity.

Do you believe that all doctors in the country would want the court to issue such a declaration?

A I don't know what all doctors would want.

Q There are many lesbian, gay, bisexual and transgender doctors in this country, correct?

A Correct.

Q Do you believe that all of the lesbian, gay, bisexual and transgender doctors in this country would want the court to issue a declaration that Section

1557 does not prohibit discrimination on account of sexual orientation and gender identity?

A I don't believe they would but I can't answer for everybody. But I think it's a complicated issue.

Q What do you mean by that that it's complicated issue?

A Well, I mean, you're bringing in gay and lesbian versus gender identity, transgender treatments. That's a totally separate issue in my opinion.

Q You're not concerned with issues concerning gay and lesbian patients?

A What issues?

Q Strike that. Are you aware that during the Trump administration, HHS took the legal position that you advocate in this case that Section 1557 does not prohibit discrimination on account of sexual orientation and gender identity?

A Yes.

Q Are you aware that during the Trump administration, some groups of doctors and medical

providers sued HHS to try to get that interpretation set aside as unlawful?

A No.

Q Are you aware that those groups ask the courts in those cases to rule that Section 1557 does prohibit discrimination on account of sexual orientation and gender identity?

A I don't know.

Q Do you believe that in this lawsuit, you're adequately representing the interests of doctors and medical providers who disagree with your view that Section 1557 does not prohibit discrimination on the basis of sexual orientation and gender identity?

A Yes. I guess I'm a little confused. Say that one more time. I'm getting --

Q Do you believe that in this lawsuit, you are adequately representing the interests of the doctors and medical providers who disagree with your view that Section 1557 does not prohibit discrimination on the basis of sexual orientation and gender identity?

A Yes.

Q How so?

A Well, I want to make sure this is clarified that we know what we're talking about when it comes to discrimination against transgender patients.

That if I'm doing something that's not based on their -- that I'm doing something that's based -- I'm doing appropriate care based on their biologic sex versus what they -- what their gender identity is.

I want to make sure that I'm not considered discriminatory if I'm doing the right thing by my patient.

Q Do you believe that in your -- in this lawsuit, you are adequately representing the interests of doctors and medical providers who have previously sued HHS under the Trump administration to challenge the legal interpretation that you are offering in this lawsuit?

A I don't know the answer to that. I don't know how to answer that.

Q Okay.

MR. NEWMAN: I have no further questions at this point.

MR. MITCHELL: I have no questions

either.

VIDEOGRAPHER: Going off the video record. The time is 10:10.

(Signature Waived.)

(Whereupon, at 10:10 a.m., the proceeding was concluded.)

CERTIFICATE OF NOTARY PUBLIC

I, MERIENNE GASCA, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

MERIENNE GASCA
Notary Public in and for the
State of Texas

CERTIFICATE OF TRANSCRIBER

I, JIMMY JACOB, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

JIMMY JACOB

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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IN UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

SUSAN NEESE, M.D., et al.,)
)
)
Plaintiffs,)
) CIVIL ACTION NO.
VS.) 2:21-CV-163-Z
)
XAVIER BECERRA, et al.,)
)
Defendants.)

****

REMOTE ORAL VIDEOTAPED DEPOSITION OF
JAMES HURLY, M.D.
JULY 28, 2022
VOLUME 1

****

REMOTE ORAL VIDEOTAPED DEPOSITION OF JAMES HURLY, M.D., produced as a witness at the instance of the Defendants taken in the above-styled and -numbered cause on the 28th day of July, 2022, from 2:12 p.m. to 3:30 p.m., before Schias K. Carmon-Brown, a Certified Shorthand Reporter in and for the State of Texas, reported by machine shorthand, remotely via Zoom, pursuant to the Federal Rules of Civil Procedure.

A P P E A R A N C E S

(Via Videoconference)

FOR THE PLAINTIFFS:

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FOR THE DEFENDANTS:

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ALSO PRESENT:

Ms. Megan King, Videographer

I N D E X

INDEX OF EXHIBITS

P R O C E E D I N G S:

THE VIDEOGRAPHER: Good afternoon. We are on the record at 12 -- excuse me -- 2:12 p.m. on July 28th, 2022. This is the deposition of Dr. James Hurly in the matter of Susan Neese, M.D., et al., versus Xavier Becerra, et al., filed in the Northern District of Texas, Amarillo Division, Civil Action Number 2:21-CV-163-Z. Please note this deposition is being conducted virtually. My name is Megan King representing Veritext, and I am the videographer. At this time, Counsel, please state your appearances for the record.

MR. NEWMAN: My name is Jeremy Newman. I'm an attorney with the U.S. Department of Justice for the defendants.

MR. MITCHELL: Jonathan Mitchell from Mitchell Law, PLLC, and I represent the plaintiffs.

THE WITNESS: Dr. James Hurly with Amarillo Pathology Group.

JAMES HURLY, M.D.,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. HURLY:

Q. My name is Jeremy Newman. I'm an attorney with the U.S. Department of Justice. I represent the defendants in this case, Xavier Becerra, Secretary of U.S. Department of Health and Human Services and the Unites States of America. And I may

refer to the Department of Health and Human Services during this deposition as "HHS." Have you ever been deposed before, Dr. Hurly?

A. I have.

Q. How many times?

A. Twice.

Q. And can you explain what were those cases about?

A. One was a medical-legal lawsuit. I was just a witness for some pathology that I had read and I was not a defendant or a plaintiff. And the other one was an issue -- a legal issue with the local golf course here where my property was taking some golf balls an endangered my children.

Q. Do you understand you're under oath?

A. Yes.

Q. Do you understand you have the same obligation to tell the truth as if you were testifying in a courtroom?

A. Yes.

Q. I'll be asking you some questions. If you don't understand a question, you can tell me you don't understand or ask me to clarify the question. Do you understand that?

A. Yes.

Q. If you answer a question, I'll assume that you understood it. Okay?

A. Yes.

Q. And if you don't know or -- an answer to a question

or if you don't recall the answer to a question, it's okay to answer that you don't know or you don't recall.

A. Okay.

Q. And the court reporter will be taking down answers to my questions. For that reason, you need to provide clear, verbal answers. For example, "yes" or "no" rather than just a nod or a shrug or an "huh-uh" or "uh-uh." Do you understand?

A. Sure. Yes.

Q. And so I'll -- try not to speak too fast and try not to speak over me. I'll need to finish my question before you start to answer. And in turn, I'll try to let you complete your answer before I start my next question, okay?

A. No problem.

Q. And your counsel might object to some of my questions. And if your counsel objects, you still need to answer the question unless your counsel specifically instructs you not to answer the question. Do you understand?

A. Understood.

Q. If you need to take a break for any reason, just let me know and we'll do so. The only exception is if there's a question pending, then I'll ask you to answer that question before we take a break, okay?

A. Okay.

Q. All right. So I am going to introduce an exhibit right now. Just give me a minute to do that. Okay. I have

just introduced Exhibit 4, which is a document titled, First Amended Complaint Class Action.

(Exhibit 4 marked.)

Q. (BY MR. NEWMAN) Dr. Hurly, are you able to view the document?

A. So when I get onto the Veritext, do I click on a particular file?

Q. It -- so it should be in the marked exhibits folder.

A. Marked, okay.

Q. So Exhibit 4.

A. I see it, yeah.

Q. Okay. Yes.

A. That's our amended complaint. Yeah. I see it.

Q. Okay. So I'll start with just some general questions about the document. Do you recognize this document?

A. I do.

Q. What is it?

A. It looks like our first amended complaint in the class action lawsuit against the U.S.

Q. Have you read this document before?

A. I have.

Q. Can you explain the circumstances in which you read this document?

A. Well, I just read it at home.

Q. Did you -- did you read it before or after it was

filed in court?

MR. MITCHELL: Mr. Newman, may I just interject briefly and instruct the witness --

MR. NEWMAN: Yes.

MR. MITCHELL: -- not to disclose any communications he may have had with me or my co-counsel in answering your question.

You can answer, Dr. Hurly.

A. Can you repeat the question? I'm sorry.

Q. (BY MR. NEWMAN) Sure. Sure. Sure. The question was, did you read this document before or after it was filed in court? And then you keep in mind your counsel's instruction not to disclose the communication --

A. I'm not sure.

Q. Okay. So on page one of the document in the upper left corner, there are listed three names as plaintiffs, Susan Neese, M.D., James Hurly, M.D., and Jeffrey Barke, M.D. Do you see that?

A. Yes.

Q. Are you the James Hurly, M.D. listed there?

A. I am.

Q. The document says the you're one of the plaintiffs. Do you know what a plaintiff is?

A. Yes, I do.

Q. What's a plaintiff?

A. Well, I'm initiating a lawsuit, making a claim.

Q. So how does -- strike that.

Does this document contain allegations in a lawsuit that you filed?

A. Yes.

Q. Why did you file this lawsuit?

A. Well, mainly I think the memo that Xavier Becerra sent out was a little bit unclear to me, but I did that to -- really to clarify my obligations and obligations of all physicians under the law because the memo is a bit unclear and to protect and preserve the autonomy of all health care providers to treat transgender patients and patients with gender dysphoria consistent with their ethical beliefs.

Q. I'm not asking you to disclose the substance of your communications with counsel, but what did you do to prepare for filing this lawsuit?

A. Well, I had some consultations with my attorneys.

Q. Have you talked to anyone other than your attorneys about this lawsuit?

A. No. I think I may have casually talked to Susan Neese about it, but we didn't discuss the substance because we wouldn't have known anything.

Q. So I'd like to direct your attention to the introductory photograph on Page 1, under where it says, First amended complaint class action. The paragraph that begins,

Section 1557. That paragraph states, Section 1557 of the Affordable Care Act prohibits sex discrimination in any health program or activity that receives federal financial assistance. See 42 U.S.C Section 18116. On May 10, 2021, Secretary Becerra announced that the Department of Health and Human Services, HHS, will interpret -- interpret and enforce Section 1557 to prohibit, one, discrimination on the basis of sexual orientation and, two, discrimination on the basis of gender identity. See Exhibit 1. The Secretary's interpretation of Section 1557 is incompatible with the statutory language, and the court should declare it so and enjoin the Secretary from using or enforcing this interpretation of Section 1557. Do you see that?

A. Yes.

Q. What is Section 1557 of the Affordable Care Act?

A. Well, from what I understood, it prohibits us -- the main issue that I have is -- that I'm looking at is it prohibits discrimination on the basis of sexual orientation and discrimination on the basis of gender identity basically to prevent discrimination against patients.

Q. Have you read it before?

A. I have not, no.

Q. In your view, how is Secretary Becerra's interpretation of Section 1557 incompatible with the statutory language?

A. I think the language is vague and it leaves a lot -- leaves open to interpretation a lot of actions which could possibly inappropriately construe physicians as being discriminatory when they're not being discriminatory.

Q. What is your understanding of what you're asking the court to do in the lawsuit?

A. To clarify the language.

Q. In this lawsuit, are you -- strike that.

What's your understanding of how you're asking the court to clarify the language?

A. Well, I think they should be maybe a little bit more specific.

Q. In this lawsuit, are you asking the court to order the federal government to do something or not to do something?

A. I believe I'm asking them to do that, yeah, the court to order that.

Q. Do you have an understanding of what you're asking the court to order the federal government to do or not to do?

A. Yes, to be more specific in their language.

Q. On page one near the top, the title of the document is First Amended Complaint Class Action. Do you see that?

A. Yeah, I'm going to have to switch other to that. I may lose you guys on the video. Is that okay? So go ahead. Tell me.

Q. Do you see where it says, First Amended Complaint

Class Action?

A. Yes. Correct.

Q. What's your understanding of what a class action is?

A. Well, that's where you pool -- if you have different plaintiffs, you pool all their complaints into one for simplification.

Q. But why didn't you decide to file this lawsuit as a class action?

A. Well, I think there were some different issues that a few of us different physicians have and we spoke to the attorneys and thought it would be a good idea to do it as a class action.

Q. Are you familiar with the Supreme Court decision called Bostock v. Clayton County?

A. Not really. Just very vaguely but, no, not really. I don't read a lot of Supreme Court decisions.

Q. Can you describe your vague familiarity with that decision?

A. I really have very little familiarity with it.

Q. Do you have any sense -- do you have any sense of what the Supreme Court decided in that case?

A. No.

Q. All right. Turn to page nine of this document. Page nine. I'm going to ask you about paragraph 38, which is in the middle of the page. Paragraph 38 reads, Dr. Neese, Dr. Hurly,

Dr. Barke seek to represent a class of all healthcare providers subject to Section 1557 of the Affordable Care Act. Do you see that?

A. I do.

Q. What is your understanding of what it means for a plaintiff to represent a class?

A. Well, I'm representing all physicians, I would think, but I'm representing a class -- a class of people that treat patients under the Affordable Care Act.

Q. What is your understanding of what your responsibilities would be as a class representative?

A. My responsibilities?

Q. Yes.

A. To represent their interests and to be honest with my answers.

Q. And what's your understanding of who is in the class in paragraph 38?

A. Just the three of us physicians.

Q. Let me rephrase that. What's your understanding of who is in the -- the -- the class that you hope to represent?

A. Sure. I would believe that means all healthcare providers who treat patients that are covered under the Affordable Care Act.

Q. Do you have an understanding of which physicians are covered under the Affordable Care Act?

A. I would assume that's people that in some way receive reimbursement from the federal government under some -- any type of federal program.

Q. Does that include most physicians in the country?

A. I would think most of us do some type of care for people that are on Medicare, Medicaid, but I couldn't speak for all physicians.

Q. Okay. Thank you. I'm going to introduce another exhibit. Just give me a minute. Okay. I have just introduced Exhibit 5.

(Exhibit 5 marked.)

Q. (BY MR. NEWMAN) Are you able to see it?

A. Yeah. Let me open it. Yeah. I just opened it. Sure.

Q. So this document was filed as an exhibit to the first amended complaint. It is titled, Department of Health and Human Services 42 U.S.C. Section 18116A, Notification of Interpretation and Enforcement of Section 1557 of the Affordable Care Act and Title Nine of the Education Amendments of 1972. Have you ever seen this document before?

A. I don't believe so.

Q. Have you read it before?

A. No. I don't believe so.

Q. Do you have an understanding of what this document is?

A. I could read it real quick and tell you.

Q. Oh, yeah. Sorry. Sorry. Go ahead and take as much time as you need to -- to look at it. When you're ready, my question pending is, do you have an understanding of what this document is.

A. Sure. Just give me a moment. It looks like Xavier Becerra -- it's a notification or some kind of a clarification on Section 1557 and title -- and title nine explaining the background of the 1557 section of the Affordable Care Act and how that's enforced and kind of defining for patients if they believe -- if any entities violated their civil rights, they can file a complaint. Something to inform patients of their rights.

Q. What does this document have to do with the claims in your lawsuit?

A. Well, I believe that I would be open to a lawsuit that I was discriminating against someone if I told them that the cancer they have is incompatible with their gender identity.

Q. What does this document have to do with the claims in your lawsuit, though?

A. Well, it covers your civil rights and whether you could file a complaint that you've been discriminated against. And I'm concerned that if I tell a patient that they have a cancer -- let's say it's a male-specific cancer like prostate

cancer and they identify as a woman, they could say that I'm discriminating against them by telling them they're not the sex that they identify with.

Q. In your view, does this document contain any incorrect legal interpretations?

A. I believe I would say I'm opposed to the language based on how vague it is in Bostock, discrimination on the basis of gender identity. Incorrect language, I would say, yes.

Q. Why is that language incorrect, in your view?

A. Because the term "discrimination" is not very well defined there.

Q. So I'd like to address your attention to the middle of the first page where it says "summary." After "summary" is the following paragraph: This notification is to inform the public that consistent with the Supreme Court's decision in Bostock and Title Nine, beginning May 10, 2021, the Department of Health and Human Services, HHS, will interpret and enforce Section 1557's prohibition on discrimination on the basis of sex to include, one, discrimination on the basis of sexual orientation and, two, discrimination on the basis of gender identity. Do you see that?

A. I do.

Q. Okay. So I'm going to ask about gender identity later. But for now, I'm going to ask you about the statement

that HHS will interpret Section 1557 to prohibit discrimination on the basis of sexual orientation.

Have you -- have you ever engaged in any conduct that you believe would constitute discrimination on the basis of sexual orientation as that phrase is used in this document?

A. No.

Q. Have you ever engaged in any conduct that you believe Secretary Becerra would regard as discrimination on the basis of sexual orientation?

A. No.

Q. Is there any conduct you believe you are likely to engage in, in the future with respect to a gay, lesbian or bisexual patient that you believe would constitute discrimination on the basis of sexual orientation as that phrased --

A. No.

Q. -- is used in this document?

A. No.

Q. When HHS said that it interpreted Section 1557 to prohibit discrimination on the basis of sexual orientation, do you believe that that harmed you in any way?

A. No.

Q. If the judge in this case issues a ruling stating that it is permissible for health care providers to discriminate on the basis of sexual orientation, do you believe

that would benefit you in any way?

A. No.

Q. Okay. I am going to introduce another exhibit. I have just introduced Exhibit 6.

(Exhibit 6 marked.)

Q. (BY MR. NEWMAN) This document is titled, Plaintiff James Hurly's Answers to First Set of Interrogatories. Do you -- are you able to see it, Dr. Hurly?

A. I am.

MR. MITCHELL: Mr. Newman, I'm still trying to pull that exhibit up.

MR. NEWMAN: Okay.

MR. MITCHELL: Sorry for the delay.

THE WITNESS: And, Jonathan, just so you know, I cannot see you when I'm viewing this document.

MR. MITCHELL: Okay. Thank you for telling me.

I have the exhibit now, Mr. Newman.

MR. NEWMAN: Okay. Great.

Q. (BY MR. NEWMAN) Okay. So this document is titled, Plaintiff James Hurly's Answers to First Set of Interrogatories.

Dr. Hurly, have you seen this document before?

A. I have, yeah.

Q. Have you read this document before?

A. Yes.

Q. What is this document?

A. These are answers to a series of questions that were posed to me, I think, by the U.S. attorney's office or Department of Justice.

Q. Okay. Can you please turn to page nine of the document?

A. Sure.

Q. That page states, Verification. I declare under penalty of perjury that the answers to the interrogatories are true and correct. And it says, DocuSigned by James Hurly. Do you see that?

A. Yeah, I see -- I see that.

Q. Did you do something on a computer or electronic device to cause that electric signature to be entered?

A. Yes. That's my signature.

Q. What were you representing when you electronically signed this document?

A. That I was being truthful to my questions -- the questions put to me.

Q. What did you do to make sure that the answers to the interrogatories were true and correct?

A. I answered --

MR. MITCHELL: Dr. Hurly, just let me instruct you not to disclose -- do not disclose communications between you and your counsel in answering Mr. Newman's question.

THE WITNESS: Sure.

A. Just to be truthful, just to answer truthfully.

Q. (BY MR. NEWMAN) Okay. Please turn back to page one, and I'm going to ask you about your response to interrogatory number one.

A. Sure. Yeah, I see it.

Q. In that answer, you wrote, I am a community-based pathologist certified in anatomic and clinical pathology. Do you see that?

A. I do.

Q. What is a community-based pathologist?

A. Well, I work in a community -- in the community hospital rather than a university hospital. So basically it's a community versus university hospital, private slash public hospital.

Q. What is a pathologist?

A. Pathologist comes from the Greek meaning study of disease. So I am -- I am a diagnostician. I am a consultant for other physicians that handles bodily fluids and bodily tissues.

Q. What is anatomic and clinical pathology?

A. Anatomic -- I'm in the middle of deposition. One of my children. Sorry.

So "anatomic" has to do with actual structural tissues. "Clinical" has to do more with analyzing blood and

fluids. Counting cells or, you know, giving some numeric value to blood such as serum lipid profile, cholesterol, something like that. So those are the differences.

Q. Can you generally describe the services that you perform in your medical practice?

A. I interpret fluids and tissues from all areas of the body from the brain to the skin to the bone marrow to the liver to the lungs, basically any part of the human body. And I do that microscopically. And I also provide the -- the certification and guarantee the quality of the clinical laboratory that I serve that all results coming from the various branches of the laboratory are true and correct, and that would include blood bank, chemistry, microbiology, immunology, serology and things like that.

Q. So now please look at interrogatory number two, which begins at the bottom of page one, and then your answer is on page two.

A. Uh-huh.

Q. So in your answer you wrote, I do not directly treat patients. As a pathologist, I analyze lab work to confirm a patient's diagnosis for their treating physician. Do you see that?

A. Correct.

Q. Can you explain the difference between a treating physician and a pathologist?

A. Well, I would say that I'm not a clinician. We use the term "clinician." I'm more of a consultant for the clinician. So I don't directly see the pathologist. I'm sort of the secondary physician that diagnoses -- diagnoses and gives treatment -- diagnoses and treatment and recommendations to the physicians who have done the sampling.

Q. I believe in your answer you said, I don't directly see the pathologist. Did you mean, I don't directly see the patient?

A. I do not directly treat patients as a pathologist. I analyze lab work and confirm the patient's diagnosis for their treating physician. Yeah.

Q. So how do you -- how do you obtain your patients?

A. Obtain my -- doesn't make sense. Obtain --

Q. How do you get -- how do you get your work? How do you get patients?

A. They send them to us. The clinicians relay the tissues to us.

Q. Do you determine what tests to run for patients or does the treating physician determine that?

A. They generally will determine that. On occasion, they will consult with me to order proper lab tests, but generally they determine that.

Q. Do you meet directly with patients?

A. Very rarely. Very rarely.

Q. How often?

A. Oh, gosh, maybe once or twice in my career.

Q. So suppose that based on lab work you -- you diagnosed a patient with a certain condition, who do you deliver that diagnosis to?

A. To the physician that ordered the test.

Q. And then your understanding is that the physician would deliver the diagnosis to the patient?

A. Correct.

Q. Do you perform any kind of surgery on any patients?

A. I do not.

Q. Do you provide hormone therapy -- do you provide hormone therapy of any kind to any patients?

A. No, I do not.

Q. So please look at interrogatory number eight, which begins at the bottom of page two and your answer is on page three. In your answer, you wrote, In my practice, I have encountered situations in which patients have denied a diagnosis wrongly claiming they cannot have it because they are no longer of a particular gender. For example, my group once diagnosed a biologic male patient with prostate cancer but the patient refused to accept this diagnosis because he identified as a woman and insisted that he could not have a prostate and that he had a cervix instead. We had to firmly explain to this patient that he was indeed a biologic man with a prostate, and

that he needed to seek urgent medical treatment for his prostate cancer. Do you see that?

A. I do.

Q. So the first sentence of this response says, I have countered -- encountered situations, plural, and then you describe one --

A. Yeah. It's one -- yeah. It's one situation. I have had one encounter.

Q. Okay. So there -- other than the example you describe, there have been no other examples of someone wrongly claiming that they can't have a diagnosis because of their --

A. No, only one so far.

Q. Okay. Can you just describe generally what happened with the patient that you describe in this answer?

A. I was informed by one of our secretaries who took a phone call directly from the patient that the patient was arguing with her and in denial that they had a prostate cancer because they were a woman and it was not possible that they could have prostate cancer and it must be a misdiagnosis and it should be either cervical or endometrial cancer.

Q. Did you deliver the diagnosis directly to the patient?

A. No, I did not. Our secretary handled that. And I'm not sure which pathologist in our group made that diagnosis.

Q. So you did not make the diagnosis to that patient?

A. I may have but I don't know. There's seven of us pathologists, so it may have been me.

Q. Did you ever have any interaction with this patient?

A. No.

Q. Do you know -- strike that.

What did your secretary tell you about what the patient had said?

A. Repeated that the patient was in denial that they could possibly have prostate cancer, since they were a woman.

Q. Do you know -- do you know what -- how the secretary responded to the patient?

A. I couldn't give you specifics. I would be paraphrasing. But she assured the patient that it was prostate cancer.

Q. Do you know what happened to this patient after this interaction over the phone?

A. No, sir, I have no idea.

Q. Do you believe that your group's care for this patient was medically appropriate?

A. Yes.

Q. Do you believe that your group -- strike that.

Based on your personal understanding of what it means to discriminate on the basis of gender identity, do you believe that your group discriminated against this patient on the basis of gender identity?

A. Absolutely not. We did not discriminate on the basis of gender identity.

Q. Why do you believe that?

A. Well, because our job is to take care of patients and ensure their health and safety. And that is our first job is to do no harm, so we have to be accurate with our diagnoses.

Q. Do you belief that Secretary Becerra would consider your group's treatment of this patient would constitute discrimination on the basis of gender identity?

A. I think that very well could happen.

Q. Why do you believe that?

A. Well, I have seen people have lawsuits filed or even jailed for using incorrect pronouns. So if language, the free speech First Amendment rights become jeopardized by a federal act, then I would think that my diagnosis would be open to that same interpretation and I might be considered criminal that I diagnosed someone with an organ that they claim they don't have.

Q. Can you take a look back at Exhibit 5, which is the notification of interpretation and enforcement of Section 1557?

A. Yeah, I see it.

Q. Can you point to any language in that document that makes you believe that Secretary Becerra would consider your group's treatment of this patient to constitute discrimination?

A. This is interrogatory number five?

Q. Sorry. In Exhibit Number 5.

A. Oh, Exhibit 5.

Q. Yeah. Sorry. Do you see that's the --

A. I have to go back. We're on six. Is it okay if I go back?

Q. Yeah, yeah, please do.

A. Sorry about that. Okay. Please repeat. I'm looking at Exhibit 5. Can you please repeat the question?

Q. The -- the patient that you described disputed the diagnosis of prostate cancer, can you point to any language in Exhibit 5 that would make you believe that Secretary Becerra would consider your group's treatment of that patient to constitute discrimination?

A. Under the summary, it's numeric two where it says discrimination on the basis of gender identity. The patient denies that they are male, I could very well suffer under that interpretation.

Q. Any other language in that document besides that phrase discrimination on the basis of gender identity?

A. No. I think this's the very specific language that concerns me.

Q. Are you aware of any other statements by Secretary Becerra or HHS that -- that makes you concerned that Secretary Becerra or HHS would consider your group's treatment of this patient to be discriminatory?

A. Oh, I don't believe so.

Q. Do you believe that Secretary Becerra has a different view from you about what it means to discriminate against a patient on the basis of gender identity?

A. I couldn't speak to his opinion, but I could say he definitely could have a difference of opinion from me if it were expedient.

Q. Are you aware of anything that he or anyone at HHS has said or written that would make you believe that Secretary Becerra or HHS have a different view from you about what it means to discriminate against a patient on the basis of gender identity?

A. No.

Q. So we've talked about one situation where you're concerned about being charged with discrimination where a transgender patient denies a diagnosis based on a gender -- gender identity. Are there any other situations in which you are concerned that you have done or might do something that Secretary Becerra would consider to be discriminatory?

A. Nothing that I have done but I'm concerned it could happen more frequently because it seems to be occupying a little bit more time in the public conscious -- consciousness and I believe we'll probably see more of these with increasing frequency.

Q. What specifically are you concerned that you might do

in the future that Secretary Becerra might consider to be discriminatory?

A. I'm concerned specifically with specific cancers such as prostate or testicular cancer versus ovarian, endometrial and endocervical or ectocervical cancers that are sex-specific that would have to be properly diagnosed and properly treated. I don't include breast cancer because males can, on occasion, get breast cancer, not very commonly, but can.

Q. Is your -- is your concern about sort of situations that may arise in the future all in the general situation of diagnosing someone based on the organs or body parts that they have and the transgender patient disputing that diagnosis?

A. Yes. That's correct.

Q. Okay. Do all the doctors in this country agree about when it is appropriate to provide gender transition services to transgender individuals?

A. Oh, gosh, I couldn't answer for other doctors. I couldn't answer that.

Q. Do -- do all doctors in this country agree about whether it should be legal to discriminate against patients on the basis of gender identity?

A. I would think uniformly all physicians agree that they should not discriminate, but their views on gender identity and gender dysphoric disorder would be pretty nuanced.

Q. Different -- different doctors have different views

about gender identity?

A. I would think so. I'm almost assured that --

Q. What do you mean by that?

A. Well, I think if you put ten people in a room and ask them the question you just asked me, you would get ten slightly different opinions.

Q. Do -- do all doctors in this country have the same views about the notification from HHS that you're challenging in this case?

A. Can you --

MR. MITCHELL: Mr. Newman -- I'm sorry -- Mr. Newman, I'm going to object to the form of the question because the way you phrased it calls for speculation. There's no way he can know what other doctors think. I'm sorry. Go ahead.

MR. NEWMAN: Sorry. Let me rephrase that.

Q. (BY MR. NEWMAN) Do you have any understanding about whether all doctors in the country have the same views about the notification from HHS that you're challenging in this case?

A. No. I have no understanding of that.

Q. Take a look back at Exhibit 4, which is the first amended complaint. And in particular, please look at page ten and paragraph 48, which is near the bottom of page ten.

A. I see it.

Q. Okay. Page 40 -- sorry. Paragraph 48 states, The Court should therefore declare that Section 1557 does not

prohibit discrimination on account of sexual orientation and gender identity, as Secretary Becerra claims, but that it prohibits only sex discrimination, which means that provider would have acted differently toward an identically situated member of the opposite biological sex. Do you see that?

A. Yes.

Q. Do you believe -- strike that.

Do you have any understanding about whether all doctors in this country would want The Court to issue a declaration that Section 1557 does not prohibit discrimination on account of sexual orientation and gender identity?

A. I couldn't speak for all of the physicians.

Q. Isn't it true that there are many lesbian, gay, bisexual and transgender doctors in this country?

A. Sure. Yes.

Q. Do you believe that all of the lesbian, gay, bisexual and transgender doctors in this country would want The Court to issue a declaration that Section 1557 does not prohibit discrimination on account of sexual orientation and gender identity?

A. I don't think I could speak for anybody based even on their sexual orientation on what their opinions would be.

Q. Are you aware that during the Trump administration HHS took the legal position that you advocate in this case that Section 1557 does not prohibit discrimination on account of

sexual discrimination and gender identity?

A. No, sir.

Q. Okay. I am going to introduce another exhibit.

(Exhibit 7 marked.)

Q. (BY MR. NEWMAN) Okay. I have introduced Exhibit 7. This is a press release of the American Medical Association dated May 10, 2021, titled AMA Statement on Biden Decision to Restore Anti-Bias Protections. Do you see the exhibit?

A. I do.

Q. This press release is dated May 10, 2021. Is that the same date that HHS issued the notification that you're challenging in your lawsuit?

A. Oh, I'm not sure. I don't know.

Q. Take a look back at Exhibit 5, which is --

A. Let's see here. I'm looking at it.

Q. Do you see that, page one? It says, Dates, this notification is effective May 10, 2021?

A. Yes. I see it. Yes. Around the same date. Correct.

Q. Okay. And now back to Exhibit 7. The press release beginning on page one reads, The following statement is attributable to Susan R. Bailey, M.D., AMA president. The Biden administration did the right thing by terminating a short-lived effort to allow discrimination based on gender or sexual orientation when seeking health care. As we said in our

letter PDF to the previous administration, the interpretation was contrary to the intent and the plain language of the law. It's unfortunate that such an obvious step had to be taken. The AMA welcomes this common-sense understanding of the law. This move is a victory for health equity and ends a dismal chapter in which a federal agency sought to remove civil rights protections. Do you see that?

A. I do.

Q. In this press release, is the American Medical Association expressing support for the notification that you're challenging is unlawful?

A. Well, I'm not sure. It sounds like it is, but I'm not a hundred percent sure.

Q. In this -- in this press release, is the American Medical Association advocating for a legal interpretation that is different from the legal interpretation that you're advancing in this lawsuit?

A. It could be, yes.

Q. Based on this press release, do you believe that Dr. Susan R. Bailey, the president of the AMA, who is quoted in this press release, would support or oppose your lawsuit?

A. Sounds like she might oppose it.

Q. All right. I'd like to introduce another exhibit. I've introduced Exhibit 8 -- sorry.

(Exhibit 8 marked.)